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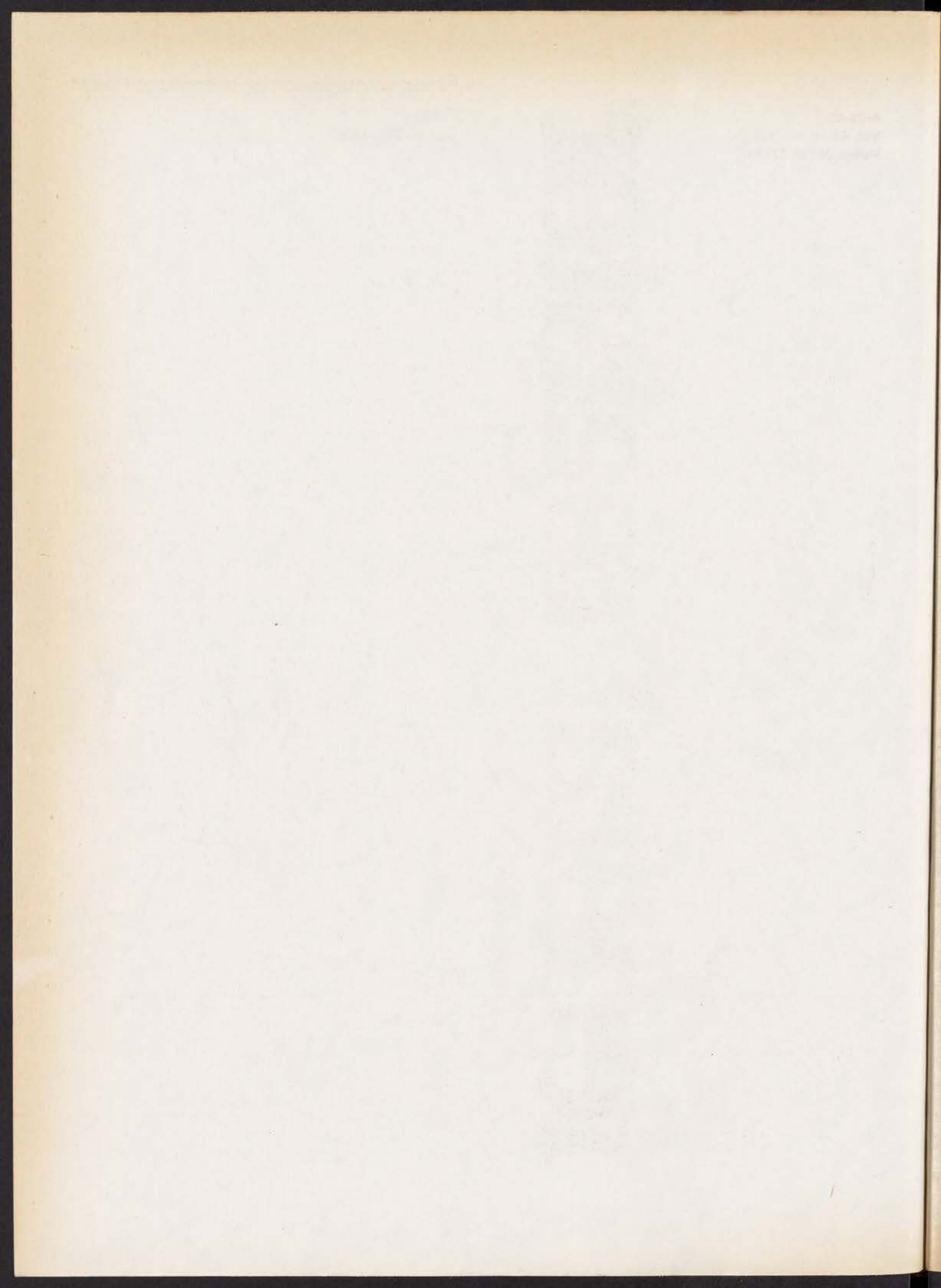
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Estuaries



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Federal Register

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 907 and 908

[FV-88-111 FR]

Navel Oranges Grown in Arizona and Designated Part of California; Valencia Oranges Grown in Arizona and Designated Part of California; Revision of the Administrative Rules and Regulations (Short Life Allotments)

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule revises procedures which are contained in the administrative rules and regulations of the California-Arizona navel and Valencia orange marketing orders. This action was recommended by the Navel and Valencia Orange Administrative Committees (committees), which are responsible for local administration of the orders. This final rule will require handlers requesting short life allotments to submit additional information to the committees in order to aid the committees in administering the short life allotment provisions in the orders in an equitable manner. This rule also adds deadlines for the filing of short life allotment requests.

EFFECTIVE DATE: July 30, 1990.

FOR FURTHER INFORMATION CONTACT:

Jacquelyn R. Schlatter, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 447-5120.

SUPPLEMENTARY INFORMATION:

This final rule is issued under Marketing Order Nos. 907 and 908 (7 CFR parts 907 and 908), as amended, regulating the handling of navel and

Valencia oranges grown in Arizona and designated parts of California. These orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act.

This rule has been reviewed by the U.S. Department of Agriculture (Department) in accordance with Departmental Regulation 1512-1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 125 handlers of navel oranges and 115 handlers of Valencia oranges subject to regulation under their respective orders, and approximately 4,065 producers of navel oranges and 3,500 producers of Valencia oranges in California and Arizona. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts for the last three years of less than \$500,000, and small agricultural service firms are defined as those whose annual receipts are less than \$3,500,000. The majority of California-Arizona navel and Valencia orange producers and handlers may be classified as small entities.

This final rule changes the administrative rules and regulations of the navel and Valencia orange marketing orders. The changes will require handlers requesting short life allotments to submit additional information to the committees in order to aid the committees in administering the short life allotment provisions of the orders in an equitable manner. Deadlines are also established for the filing of short life allotment applications.

Paragraphs (a) of §§ 907.50 and 908.50 of the navel and Valencia orange marketing orders, respectively, provide that, prior to recommendations for regulation for each prorate district, the committees shall submit to the Secretary their respective marketing policies for the ensuing season. These marketing policies include, among other information, the estimated utilization of the navel or Valencia orange crops, showing the quantity and percentage of those crops that will be marketed in domestic, export, and byproduct channels.

Paragraphs (b) of §§ 907.51 and 908.51 of the orders provide that the committees shall provide equity of marketing opportunity to handlers in all districts. Paragraphs (a) of §§ 907.110 and 908.110 of the administrative rules and regulations of the orders state that the committees shall establish an equity factor which is the same for all prorate districts. The equity factor is stated as a percentage of the tree crop in each district and reflects a quantity of oranges (grown in each district) for which there will be equitable marketing opportunity under volume regulation each season. Paragraphs (b) of the same sections provide that in the marketing policy meetings for each prorate district the committees shall formulate weekly shipping schedules for the ensuing season reflecting, insofar as practicable, the quantity of oranges grown in that district to be shipped under volume regulation each week. The quantity of oranges on such schedules is computed by application of the equity factor to the tree crop of the district. Paragraphs (f) of §§ 907.110 and 908.110 give the committees authority to make such adjustments as they deem advisable in the equity factors, the weekly shipping schedules, and the percentage allocations to prorate districts, in order to reflect changing crop or market conditions.

Paragraphs (h) of §§ 907.53 and 908.53 of the orders provide that during any week when volume regulation is likely to be recommended, the committee shall compute, with respect to each prorate district, the total quantity of oranges available for current shipment by each person who has applied for a prorate base and for allotments. On the basis of such computation, the committees fix a prorate base for each person who is entitled thereto. Based on such prorate

bases, the committees calculate the quantity of oranges (allotment) which may be handled by each handler during each week in which volume regulations are issued.

Paragraphs (g) of §§ 907.110 and 908.110 authorize the committees to calculate each season an estimated percentage of the total tree crop in the production areas which, in the judgment of the committees, will be handled under volume regulation and prepare a schedule of estimated weekly shipments based thereon, taking into account the purposes of the Act. Such percentages and schedules are used as references for determining adjustments in the prorate bases of handlers, for granting short life allotments, and for matters wherein it is necessary to consider utilization of the crop within a district.

Most navel and Valencia oranges are picked and packed as needed as they can be stored on the tree for an indefinite period without significant losses in fruit quality and condition. However, because of environmental conditions in different producing localities and due to the characteristics of some varieties and combinations of rootstock and scion varieties, some oranges are produced which do not possess the keeping qualities of other oranges produced in the same prorate district. At the end of the shipping season, the fruit is puffy, soft, and deteriorates very quickly. These oranges are called short life oranges. The shipping life of such oranges is shorter than the shipping life of other oranges in the same district and thus, they have a shorter marketing period. Under the orders, the normal marketing period for navel and Valencia oranges is that period in which the fruit is of such quality that it can be shipped and will hold sufficiently well to be acceptable to consumers. The normal marketing period of short life oranges is shorter than that of other oranges and can vary not only between districts but between groves in the same district.

Sections 907.61 and 908.61 of the orders provide for the committees to withhold from the allotments of handlers, on a uniform proportionate basis for all handlers, an amount sufficient to permit a handler of short life oranges to handle during the normal marketing period of such short life oranges as large a proportion of oranges as the average which will be handled by all handlers. The committees determine, on the basis of all available information, the extent to which a handler needs short life allotment and allocate such allotment to the handler at a uniform weekly rate, insofar as practicable,

during the normal marketing period of the handler's short life oranges. Thus, handlers who are granted short life allotments are permitted to handle during the shipping season of their short life oranges a quantity of short life oranges equal proportionately to the average to be handled by all handlers of navel or Valencia oranges within their prorate district. After a handler receives short life allotment allowing the expedited marketing of short life oranges, allotment which would have been assigned to that handler during the rest of the marketing season is allocated to handlers from whom allotment was withheld to permit the allocation of short life allotment.

Short life allotments are only applicable during the normal marketing period of such oranges. Thus, a handler whose oranges can only be marketed for a six-week period beginning in November could receive short life allotment only during that period, whereas a handler whose short life oranges can only be marketed for a six-week period beginning in January could receive short life allotment for those oranges only during that period.

To require handlers of short life oranges to market their oranges at the same rate as other handlers would result in handlers of short life oranges shipping a lower percentage of their crop of oranges to the fresh domestic market compared to other handlers in the district and industry because short life oranges shipped during the latter part of the shipping season could not be shipped to markets for sale to consumers in good condition.

There are handlers who ship both short and normal life oranges. Some of these handlers, because they have a low percentage of short life oranges, are able to adjust their picking and packing operations to allow the shipment of all of their short life oranges before they begin to deteriorate. Thus, they are able to handle their total supply of oranges without undue difficulty. There are other handlers who have a high percentage of short life oranges and are unable to ship all their short life oranges prior to the time such oranges begin to deteriorate. Without short life allotments, they would be unable to ship the same percentage of oranges into a fresh domestic market as the rest of the industry and their district.

Short life allotment provisions in the navel and Valencia orange marketing orders state that short life allotments shall be allocated to handlers of short life oranges at a uniform weekly rate, insofar as practicable, during the normal marketing period of the handlers' short

life oranges. The uniform weekly rate is calculated by comparing the total allotment a handler would have received under general maturity during that handler's shortened shipping season and the actual amount of allotment necessary for the handler to ship up to the industry equitable percentage during that same shipping season. The amount of extra allotment a handler must receive is expressed as a percentage uniformly applied, insofar as practicable, each week of the handler's short life shipping schedule. This percentage is derived by dividing the number of additional cartons the handler needs in order to ship up to the industry season average by the number of cartons the handler would receive under general maturity, and converting that number to a percent.

The phrase in the regulation "insofar as practicable" gives the committees flexibility in setting percentages for short life allotments each week. However, handlers who qualify for short life allotments must receive such allotment as uniformly as possible each week of their reduced shipping season. Thus, the allocation percentage for handlers with short life oranges must be adjusted each week that actual allotment levels established by the Secretary deviate from the shipping schedule. Such adjustments must continue in order to permit handlers of short life oranges to ship up to the level of handlers shipping during the regular season before the ending date of their short life season. The modifications to the administrative rules and regulations of the orders contained herein will not alter this method of issuing short life allotments.

Sections 907.114 and 908.114 of the administrative rules and regulations of the orders require that handlers controlling short life oranges who desire to obtain short life allotments must file, with the appropriate committee, an application for such allotment on N.O.A.C./V.O.A.C. Forms No. 10. These applications request information which includes the following: (1) The location of each grove producing short life oranges; (2) a record covering the maximum number of years available, but not in excess of the 10 immediately preceding years, which shows the marketing period and total utilization of all oranges; (3) a suggested shortened marketing season which shows the final date when the short life oranges covered by the application should be marketed; and (4) a showing satisfactory to the committees why the oranges covered by the application cannot be marketed during the normal marketing period for

the applicable district through appropriate adjustments in the handler's packinghouse operations.

Recently, there has been growing concern among the orange industries that the current applications for short life allotments do not provide enough information for the committees to determine whether or not short life allotments are necessary. Therefore, the committees unanimously recommended amending §§ 907.114 and 908.114 to require that additional information be submitted by applicants for short life allotments. The additional reporting requirements will be reported on revised N.O.A.C./V.O.A.C. Forms No. 10 and new N.O.A.C./V.O.A.C. Forms No. 10A, which request information on each grove producing short life oranges.

Revised N.O.A.C./V.O.A.C. Forms No. 10 require information on the percentage of grades of oranges packed out each year, the beginning and ending dates of the shipments in each year, and the estimated quantity and the acreage of all general maturity and short life oranges controlled by the applicant. New N.O.A.C./V.O.A.C. Forms No. 10A require additional information such as: (1) The root stock and scion used, if known, of the trees in the short life producing grove; (2) a breakout of historical short life crop utilization for the past 10 years, if available, which includes the beginning and ending dates of shipments for each year; (3) a physical description of the fruit at the end of each of the previous 10 shipping seasons; (4) information regarding the application of materials to extend on-tree storage life of navel and Valencia oranges during the past 10 years; and (5) planned treatments to extend on-tree storage life of the upcoming crop.

Information regarding percentages of grades of fruit shipped to the domestic market each year will allow the committees to determine if "high grading" of fruit is being practiced by the handler. High grading is a practice whereby handlers choose to selectively pack and ship primarily high grade (i.e., high quality) fruit. This results in the handler harvesting a larger quantity of fruit each week in order to utilize such handler's prorate for only high grade fruit. Therefore, a lower percentage of such handler's fruit is shipped in fresh domestic channels than the average since the handler is selectively packing only high grade fruit and utilizing the remainder in other outlets. This shortens the handler's marketing season, as the handler can ship only as much high grade fruit as the handler has available, and, once the fruit is picked, the

handler's shipments from that particular grove are complete.

Information on the rootstock and scion variety will aid the committees in determining if the applicant's trees are susceptible to producing short life fruit. Certain varieties and combinations of rootstock and scion varieties are known to be susceptible to the production of short life fruit.

Information regarding crop utilization in past years will allow the committees to determine if the handler applying for short life allotment has been able to market the same proportionate share of fruit to fresh domestic markets as the average of all handlers in that district.

A description of the fruit at the ending date of the shipments will help the committees determine if the fruit is actually in a less marketable condition than is normal for fruit in that district at that point of the general maturity shipping season.

Use of materials such as growth regulators to extend one-tree fruit life is a common practice in the orange industries. Information regarding the use of such materials used to extend on-tree fruit life will aid in the committees' review and decision process to determine if the applicant's fruit is actually short life fruit. Information on planned treatments to extend on-tree storage life of the upcoming crop will help the committees determine if the handler has planned to take appropriate measures to extend the on-tree life of the short life oranges.

This action requires handlers to submit additional information on their short life oranges in order to qualify for short life allotments. It is estimated that the additional information will take less than 10 minutes per form to complete and thus will present no significant burden to handlers.

This additional information will aid the committees in determining that short life fruit genuinely exists, that the shortened marketing season is not a result of marketing patterns and handler decisions, and that the handler cannot adequately intermingle such handler's short life and normal life oranges to be able to ship up to the industry's average. The committees consider the additional information necessary so that they can review short life requests in as equitable a manner as possible. Therefore, §§ 907.114 and 908.114 are amended by revising paragraphs (b) of those sections and by adding new paragraphs (c). In addition, changes to paragraphs (a) of §§ 907.114 and 908.114 are made to provide gender neutral language.

This final rule also requires navel orange handlers to file applications for

short life allotments by August 31 prior to the marketing year for navel oranges in Districts 1, 3, and 4 and by September 30 for handlers in District 2. The proposed rule published in the September 12, 1989, issue of the Federal Register (54 FR 37687), proposed that for the 1989-90 fiscal year, navel orange handlers in all districts would be required to file applications for short life allotments prior to October 31 in order to give handlers sufficient time to file such applications during this fiscal year. This final rule deletes that language as it appeared in the proposed rule. This rule is effective beginning with the 1990-91 fiscal year for navel oranges. The required filing dates for applications are as described previously.

Valencia orange handlers are required to file applications for short life allotments by December 31 prior to the marketing year for Valencia oranges in District 3 and January 31 for handlers in Districts 1 and 2. This final rule is effective beginning with the 1990-91 fiscal year for Valencia oranges. The different dates for the districts reflect their different growing seasons. Receiving applications by these dates will give the committees adequate time to include considerations for short life allotments and any needed revisions to their respective shipping schedules. Once the handlers have provided the committees with adequate information in order for the committees to determine the validity of the short life applications, the committees will give written notice to the applicants before general maturity allotments are issued for the prorate district in which the short life oranges are grown. Since short life allotments will be issued during each week of the handler's short life shipping season, the committee could not delay its decision. In addition, once the committees approve short life allotments for a handler, such allotments will be issued from the beginning of the handler's shipping season for such oranges at a uniform weekly rate, insofar as practicable.

A proposed rule published in the September 12, 1989, issue of the Federal Register (54 FR 37687) requested comments from interested persons until September 27, 1989. Two comments were received. They were from Mr. Carl A. Pescosolido of Cal-Ranch and Mr. James A. Moody representing Farmers Alliance for Improved Regulation. The comments are discussed herein.

Both Mr. Pescosolido and Mr. Moody, in their comments on the September 12, 1989, proposed rule, raised several issues opposing the additional information requested by the

committees from short life allotment applicants. Many of their issues are similar and will be discussed together.

Both commenters stated that the committees have not established criteria for granting short life allotments and that decisions by the committees to accept or reject applicants' short life applications will be subjective and reflect favoritism.

Because the number of oranges which qualify for short life allotment may, by their very nature, vary from season to season and district to district, the rule allows the committees flexibility to respond to the needs of handlers. Short life oranges could be the result of many cultural and environmental conditions, including varietal type, combinations of rootstock and scion varieties, and/or weather conditions in different producing localities. The quantity of short life fruit can vary not only between districts but between groves in the same district. The criteria for short life oranges are that such oranges do not have good keeping quality and have a shorter marketing season than normal life oranges in the same district. The information provided by the applicants will aid the committees in determining that short life fruit genuinely exists and that the shortened marketing season is not a result of marketing patterns and handler decisions and allow the committees to respond to the needs of handlers with short life oranges.

Both Messrs. Pescosolido and Moody stated that there are no facts in the proposed rule which inform growers of the extent of the problem which the committees are trying to solve. From the time of promulgation of the marketing orders there has been discussion of problems handlers experienced in marketing short life oranges. These problems (shortened marketing season, reduced keeping qualities such as puffiness, softness, etc.) are still experienced by many growers. The committees, in response to industry concerns about the ability of handlers to market short life oranges, recommended revising the rules and regulations concerning short life allotments to aid the committees in administering the short life allotment provisions in the orders in an equitable manner.

In another issue, Messrs. Pescosolido and Moody commented on the economic consequences of handlers receiving short life allotments. Mr. Pescosolido stated that growers of navel oranges have always received higher f.o.b. (free-on-board) prices for fruit marketed in November and December than growers have received for fruit marketed later in the season. Therefore, according to Mr. Pescosolido, any handler who ships

navel oranges earlier than other handlers will receive greater revenue and experience less risk than would handlers who do not receive short life allotments. As discussed previously, the provisions in the regulations concerning short life allotments are responsive to concerns about the ability of handlers to market short life oranges. Short life oranges have a shorter marketing period than other oranges. Furthermore, this marketing period could be a period beginning in November, January, or any other month and not just in November or December. Handlers can only receive allotment for short life oranges during the marketing period of such oranges. Handlers' requests for short life allotments must first be approved by the appropriate committee based on the information they submitted to the committees. If the appropriate committee determines that the handler cannot market such oranges under normal allotment, short life allotments would be granted to the handler. Handlers who are granted short life allotments are permitted to handle, during the shipping season of their short life oranges, a quantity of short life oranges equal proportionately to the average to be handled by all handlers of navel or Valencia oranges within their prorate districts. Further, after a handler receives short life allotment allowing the expedited marketing of short life oranges, allotment which would have been assigned to that handler during the rest of the marketing season is allocated to handlers from whom allotment was withheld to permit the allocation of short life allotment.

Mr. Moody stated that the ratio of short life to normal life oranges that would trigger eligibility for short life allotment should be specified in the rule. It would be difficult to establish a percentage for short life oranges as this percentage could change not only between seasons but during a season. As explained earlier, some handlers, because they have a low percentage of short life oranges, are able to adjust their picking and packing operations to allow the shipment of all of their short life oranges without a short life allotment before the short life oranges deteriorate. However, there are other handlers who have a high percentage of short life oranges and, while under prorate limitations, might not be able to ship all of their short life oranges prior to the time such oranges begin to deteriorate. These percentages would likely change each season, based on growing conditions and the timing of the onset, level and duration of general maturity allotments.

Mr. Moody further comments that the deadlines for submission of the applications for short life allotment are too early as handlers may not know that the fruit will be short life until just prior to general maturity. Much of the information submitted by a handler applying for short life allotment includes historical data which will aid the committees in determining that short life fruit exists. Generally, handlers should be aware prior to the beginning of the season whether or not they will have fruit that is susceptible to short life qualities and the quantity of such fruit.

Mr. Moody further commented that short life applicants should be informed or the reasons as to why their applications were denied and that an appeal procedure should be specified in the short life rules and regulations. This comment has merit. Paragraph (b)(2) of §§ 907.114 and 908.114 as proposed stated "Each applicant shall be given written notice of the committee's action as soon as it is taken." It has been determined that the sections should, in the case of a negative determination, also provide that the appropriate committee staff shall notify the applicant of the basis for the determination and the applicant will be afforded an opportunity, either orally or in writing, to present facts and reasons for reconsideration of the application.

In his last comment, Mr. Moody states that the committees should not have the power to grant or deny applications as this is an unconstitutional delegation of the lawmaking function. The appointment by the Secretary of the members of the committees is authorized by section 608(c)(7) of the Act. That section provides that the committees selected by the Secretary shall administer the orders in accordance with its terms and provisions. Through this means Congress provided that the day to day administration of the orders should rest with the committee subject to the approval of the Secretary. Thus, the committees are authorized to make certain decisions such as approving or not approving short life applications. The Secretary retains the right to disapprove any committee action at any time.

Mr. Moody's comment in regard to appeal procedures for negative responses to short life applications is accepted as indicated above. For the reasons stated above, all other exceptions are denied.

Based on available information, the Administrator of the AMS has determined that issuance of this final rule will not have a significant economic

impact on a substantial number of small entities.

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504), the information collection provisions that are included in §§ 907.114 and 908.114 of this final rule have been approved by the Office of Management and Budget (OMB) and assigned OMB Nos. 0581-0116 (navel oranges) and 0581-0121 (Valencia oranges).

After consideration of all relevant matter presented, including the committees' recommendations and other available information, it is found that this final rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

List of Subjects

7 CFR Part 907

Marketing agreements, Oranges, Reporting and recordkeeping requirements.

7 CFR Part 908

Marketing agreements, Oranges, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR parts 907 and 908 are amended as follows:

Note: These sections will appear in the annual Code of Federal Regulations.

1. The authority citation for 7 CFR parts 907 and 908 continues to read as follows:

Authority: Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

2. Section 907.114 is revised to read as follows:

Subpart—Rules and Regulations

§ 907.114 Short life allotments.

(a) *Qualification for short life allotment.* A handler shall be considered to have short life oranges when such handler has oranges which historically are known to lack keeping qualities which will permit such handler to handle, during the normal marketing period for the oranges grown in the handler's prorate district, the same proportion of such oranges as the average which will be handled by all handlers pursuant to § 907.110(g).

(b)(1) *Application to be filed.* Each handler controlling short life oranges who desires to obtain short life allotments shall file with the committee, prior to the crop year for which an application for a Prorate Base and

Allotments is filed by such handler, a signed application for such allotments on N.O.A.C. Form No. 10. The deadline for the filing of such application shall be August 31 for handlers in Districts 1, 3, and 4 and September 30 for handlers in District 2. The application shall contain the following information: Name and address of the handler applicant; location of each grove producing short life oranges; the estimated quantity and the acreage of all general maturity and short life oranges controlled by the applicant; a record covering the maximum number of years available, but not in excess of the 10 immediately preceding years, which shows the utilization of all oranges; the percentage pack-out of fruit by grade; the beginning and ending dates of the shipments in each year; a suggested shortened marketing season showing the beginning date of the normal marketing period of such fruit and the ending date which is the final date when the short life oranges covered by the application could be marketed; and a showing satisfactory to the committee why the oranges covered by the application cannot be marketed during the normal marketing period for the applicable district through appropriate adjustments in the handler's packinghouse operations.

(2) *Application supplement.* At the time handlers file applications for allotment for short life oranges they shall file, for each grove having short life oranges included in the application, a signed application information supplement on N.O.A.C. Form No. 10A. The application supplement shall include the following information: Name of the applicant handler; the location of the grove; the acreage in the grove; the year it was planted; the rootstock and scion of the trees, if known; a record covering the maximum number of years available, but not in excess of the 10 immediately preceding years, which shows the utilization of the oranges produced in the grove and the beginning and ending dates of the shipments of the short life oranges for each year in which utilization is listed in the application; a description of the condition of the short life oranges at the ending dates of shipments; a description of any methods or materials used by the grower to extend the on-tree storage life of the short life oranges; and any planned treatments to extend the on-tree storage life of the short life oranges in the upcoming year.

(c) Using the information furnished on the forms referred to in paragraph (b) of this section, along with such other relevant information as is available, the committee shall determine which

applicants are entitled to receive short life allotments, the amount of the allotments, and the specific time span (which includes the beginning and ending dates of the normal marketing season of such fruit) over which they will be given. Action shall be taken for each applicant as soon as is practicable after the application is received, but in no event later than the time when general maturity allotments are issued for the prorate district in which the short life oranges are grown: *Provided*, That such application provided the committee with adequate information to allow the committee to determine the validity of such application. Each applicant shall be given written notice of the committee's action as soon as it is taken. If an application is denied, the committee shall within a reasonable time inform the applicant in writing of the reasons therefor, and afford the applicant an opportunity to request reconsideration of the application and to, either orally or in writing, present facts and reasons therein.

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

3. Section 908.114 is revised to read as follows:

Subpart—Rules and Regulations

§ 908.114 Short life allotments.

(a) *Qualification for short life allotment.* A handler shall be considered to have short life oranges when such handler has oranges which historically are known to lack keeping qualities which will permit such handler to handle, during the normal marketing period for the oranges grown in the handler's prorate district, the same proportion of such oranges as the average which will be handled by all handlers pursuant to § 908.110(g).

(b)(1) *Application to be filed.* Each handler controlling short life oranges who desires to obtain short life allotments shall file with the committee, prior to the crop year for which an application for a Prorate Base and Allotments is filed by such handler, a signed application for such allotments on V.O.A.C. Form No. 10. The deadline for the filing of such application shall be December 31 for handlers in District 3 and January 31 for handlers in Districts 1 and 2. The application shall contain the following information: Name and address of the handler applicant; location of each grove producing short life oranges; the estimated quantity and the acreage of all general maturity and short life oranges controlled by the

applicant; a record covering the maximum number of years available, but not in excess of the 10 immediately preceding years, which shows the utilization of all oranges; the percentage pack-out of fruit by grade; the beginning and ending dates of the shipments in each year; a suggested shortened marketing season showing the beginning date of the normal marketing period of such fruit and the ending date which is the date when the short life oranges covered by the application could be marketed; and a showing satisfactory to the committee why the oranges covered by the application cannot be marketed during the normal marketing period for the applicable district through appropriate adjustments in the handler's packinghouse operations.

(2) *Application supplement.* At the time handlers file applications for allotment for short life oranges they shall file, for each grove having short life oranges included in the application, a signed application information supplement on V.O.A.C. Form No. 10A. The application supplement shall include the following information: Name of the applicant handler; the location of the grove; the acreage in the grove; the year it was planted; the rootstock and scion of the trees, if known; a record covering the maximum number of years available, but not in excess of the 10 immediately preceding years, which shows the utilization of the oranges produced in the grove and the beginning and ending dates of the shipments of the short life oranges for each year in which utilization is listed in the application; a description of the condition of the short life oranges at the ending dates of shipments; a description of any methods or materials used by the grower to extend the on-tree storage life of the short life oranges; and any planned treatments to extend the on-tree storage life of the short life oranges in the upcoming year.

(c) Using the information furnished on the forms referred to in paragraph (b) of this section, along with such other relevant information as is available, the committee shall determine which applicants are entitled to receive short life allotments, the amount of the allotments, and the specific time span (which includes the beginning and ending dates of the normal marketing season of such fruit) over which they will be given. Action shall be taken for each applicant as soon as is practicable after the application is received, but in no event later than the time when general maturity allotments are issued for the prorate district in which the short life oranges are grown: *Provided*, That

such application provided the committee with adequate information to allow the committee to determine the validity of such application. Each applicant shall be given written notice of the committee's action as soon as it is taken. If an application is denied, the committee shall within a reasonable time inform the applicant in writing of the reasons therefor, and afford the applicant an opportunity to request reconsideration of the application and to, either orally or in writing, present facts and reasons therein.

Dated: June 25, 1990.

Robert C. Keeney,
Deputy Director, Fruit and Vegetable
Division.

[FR Doc. 90-15213 Filed 6-28-90; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 1068

[Docket No. AO-178-A43; DA-90-010]

Milk in the Upper Midwest Marketing Area; Order Amending Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action revises the pooling requirements for regular and reserve supply plants; provides discretionary authority for the market administrator to make changes to regular and reserve supply plant shipping requirements; changes the administrative assessment on milk pooled under the order; and removes certain order language made obsolete by these changes in the Upper Midwest milk order.

These changes are based on evidence presented at a public hearing held in Bloomington, Minnesota, on March 14-15, 1990. More than the required number of producers in the marketing area have approved these amendments for their market.

EFFECTIVE DATE: July 1, 1990.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 447-4829.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Hearing: Issued March 2, 1990; published March 8, 1990 (55 FR 8472).

Emergency Final Decision: Issued May 30, 1990; published June 8, 1990 (55 FR 23089).

Findings and Determinations

The findings and determinations hereinafter set forth supplement those that were made when the Upper Midwest order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) Findings upon the basis of the hearing record. Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Upper Midwest marketing area.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area; and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held; and

(4) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 5 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to milk specified in § 1068.85.

(b) Additional findings. It is necessary in the public interest to make this order amending the order effective not later than July 1, 1990. Any delay beyond that

date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of this order are known to handlers. The Emergency Final decision of the Assistant Secretary containing all amendment provisions of this order was issued May 30, 1990 (55 FR 23089). The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective July 1, 1990, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the Federal Register. (Sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551-559.)

(c) Determinations. It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order amending the order is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

List of Subjects in 7 CFR Part 1068

Milk marketing orders.

Order Relative to Handling

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Upper Midwest marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

PART 1068—MILK IN THE UPPER MIDWEST MARKETING AREA

1. The authority citation for 7 CFR part 1068 continues to read as follows:

Authority: Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

2. Section 1068.7 is amended by revising paragraphs (a)(1) and (b) and amending paragraph (d) by removing and reserving paragraphs (d)(1) and (d)(2), revising paragraphs (d)(4)

introductory text, (d)(4)(i), (d)(4)(iv), and (d)(5)(ii)(B), redesignating paragraph (d)(7) as (d)(8) and adding a new (d)(7) to read as follows:

§ 1068.7 Pool plant.

• • • • •

(a) • • •

(1) The total route disposition (except filled milk) as a percent of the total Grade A fluid milk products received in bulk form at such plant or diverted therefrom by the plant operator is at least equal to the marketwide Class I utilization percentage for the same month of the preceding year; and

• • • • •

(b) Any plant (which, if qualified pursuant to this paragraph, shall be known as a "pool supply plant") that is approved by a duly constituted regulatory agency for the handling of Grade A milk, subject to the following conditions:

(1) The volume of fluid milk products delivered to pool distributing plants as a percent of the total Grade A milk received at the plant from dairy farmers during the month (including milk delivered to the plant from dairy farms for the account of a cooperative association and milk diverted from the plant by the plant operator but excluding milk diverted to the plant from another pool plant) is not less than the marketwide Class I utilization percentage for the same month of the preceding year, subject to the following conditions:

(i) These shipping percentages may be increased or decreased by the market administrator if the market administrator finds that such revision is necessary to encourage needed shipments or to prevent uneconomic shipments. Before making such a finding, the market administrator shall investigate the need for revision either on the market administrator's own initiative or at the request of interested parties. If the investigation shows that a revision of the shipping percentage might be appropriate, the market administrator shall issue a notice stating that the revision is being considered and invite data, views, and arguments. Any request for revision of shipping percentages shall be filed with the market administrator no later than the 15th day of the month prior to the month for which the requested revision is desired effective;

(ii) A cooperative association that operates a supply plant may include as qualifying shipments its deliveries to pool distributing plants directly from farms of producers pursuant to § 1068.9(c);

(iii) A proprietary handler may include as qualifying shipments milk diverted to pool distributing plants pursuant to § 1068.13(d);

(2) In order to meet the requirements of this paragraph, two or more supply plants operated by one or more handler(s) may qualify for pooling as a unit during the following months of August through July by meeting the applicable percentage requirements of this paragraph in the same manner as a single plant, provided that:

(i) The handler(s) file a request with the market administrator for such unit status no later than July 15 of each year. Such a request should specify the order in which plants would cease to be considered part of the unit if the unit fails to meet the applicable percentage requirements of this paragraph. Any plant that ceases to be part of a unit will not be eligible to rejoin a unit until the following August. No plant may become part of a unit after the unit is formed and the market administrator has been notified; and

(ii) Each handler operating supply plant(s) for which the shipping percentages are met as part of a unit must ship at least 5 percent of the Grade A milk received at its plant(s) from dairy farmers during the month (including milk delivered to the handler's plant(s) from dairy farms for the account of a cooperative association pursuant to § 1068.9(c) and milk diverted from the plant(s) by the plant operator but excluding milk diverted to the plant(s) from another pool plant) to pool distributing plant(s) in one of the months of August through December in order for the handler's plant(s) to be a supply plant(s) for the month of December; and

(iii) Each plant in the unit is located in the marketing area, or was a pool plant pursuant to § 1068.7(b) for each of the three months immediately preceding the effective date of this paragraph so long as it continues to maintain pool status.

(3) The quantity of fluid milk products moved from a supply plant to a pool distributing plant or pool distributing plant unit that shall count toward meeting the shipping requirements of paragraphs (b)(1) and (b)(2) of this section shall be a net quantity which shall exclude the pounds by which the quantity specified in paragraph (b)(3)(i) of this section exceeds the quantity specified in paragraph (b)(3)(ii) of this section:

(i) The pounds of bulk fluid milk products transferred from the pool distributing plant or pool distributing plant unit during the month that are not to another pool distributing plant or pool distributing plant unit or to a

commercial food processing establishment pursuant to § 1068.40(b)(3).

(ii) 1,000,000 pounds.

(c) * * *

(d) * * *

(1) [Reserved]

(2) [Reserved]

(3) * * *

(4) The volume of bulk fluid milk products shipped from the plant to pool distributing plants as a percent of the total Grade A milk received at the plant from dairy farmers during the month (including milk delivered to the plant from dairy farms for the account of a cooperative association pursuant to § 1068.9(c) and milk diverted from the plant by the plant operator but excluding milk diverted to the plant from another pool plant) is not less than 10 percent for each of the months of January through June and, for each of the months of July through December, is not less than the marketwide Class I utilization percentage for the same month of the preceding year, subject to the following conditions:

(i) These shipping percentages may be decreased by the market administrator on the basis that such revision is necessary to prevent uneconomic shipments. Before making such a finding, the market administrator shall investigate the need for revision either on the market administrator's own initiative or at the request of interested persons. If the investigation shows that a revision of the shipping percentage might be appropriate, the market administrator shall issue a notice stating that the revision is being considered and invite data, views, and arguments. Any request for revision of shipping percentages shall be filed with the market administrator no later than the 15th day of the month prior to the month for which the requested revision is desired effective;

(ii) * * *

(iii) * * *

(iv) Shipments from a reserve supply plant to a distributing plant regulated under another Federal order may count as if delivered to a pool distributing plant if the market administrator is notified of the amount of any such commitments to ship milk no later than the fifteenth day of the prior month. Total credit for shipments to plants regulated under other Federal orders shall be limited to the quantity of milk delivered from the plant to pool distributing plants during the month. Qualifying shipments to an other order plant may not be classified pursuant to § 1068.42(b)(3).

(5) * * *

(ii) * * *

(B) Shipments from a reserve supply plant within the call area to a pool distributing plant outside the call area or to a comparable plant regulated under another Federal order may count as if delivered to a pool distributing plant within the call area if the market administrator is notified of the amount of any such commitments to ship milk prior to announcement of a shipping requirement pursuant to this paragraph. Total credit for shipments to plants regulated under other Federal orders shall be limited to the quantity of milk delivered from the plant to pool distributing plants during the month. Qualifying shipments to an other order plant may not be classified pursuant to § 1068.42(b)(3); and

(6) * * *

(7) The quantity of fluid milk products moved from the reserve supply plant to a pool distributing plant or pool distributing plant unit that shall count toward meeting the shipping requirements of paragraphs (d)(4), (d)(5), and (d)(6) of this section shall be a net quantity which shall exclude the pounds by which the quantity specified in paragraph (d)(7)(i) of this section exceeds the quantity specified in paragraph (d)(7)(ii) of this section.

(i) The pounds of bulk fluid milk products transferred from the pool distributing plant or pool distributing plant unit during the month that were not to another pool distributing plant or pool distributing plant unit or to a commercial food processing establishment pursuant to § 1068.40(b)(3).

(ii) 1,000,000 pounds.

* * *

3. In § 1068.13, amend paragraph (d) by revising paragraph (d)(2), redesignating paragraphs (d)(4) and (d)(5) as paragraphs (d)(5) and (d)(6), respectively, and add a new paragraph (d)(4) to read as follows:

§ 1068.13 Producer milk.

* * *

(d) * * *

(2) The total quantity of milk diverted by a cooperative association during the month as a percent of the producer milk that the cooperative association causes to be delivered to or diverted from pool plants during the month shall not exceed the market's combined Class II and III utilization percentage for the same month of the prior year;

* * *

(4) The diversion limitations specified in paragraphs (d)(2) and (d)(3) of this section may be increased or decreased by the market administrator on the basis that such revision is necessary to

prevent uneconomic handling or shipments of milk. Before making such a finding, the market administrator shall investigate the need for revision either on the market administrator's own initiative or at the request of interested persons. If the investigation shows that a revision might be appropriate, the market administrator shall issue a notice stating that the revision is being considered and invite data, views, and arguments. Any request for revision of diversion limitations shall be filed with the market administrator no later than the 15th day of the month prior to the month for which the requested revision is desired effective;

* * *

§ 1068.85 [Amended]

4. In § 1068.85, amend the introductory text by changing "3 cents" to "5 cents".

Signed at Washington, DC, on June 25, 1990.

Jo Ann R. Smith,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 90-15157 Filed 6-28-90; 8:45 am]

BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Parts 1822, 1930, 1944, and 1965

Congregate Housing

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations regarding congregate housing under its section 515 rural rental housing program. This action is necessary to provide the public and FmHA personnel with expanded and clearer instructions on congregate housing. The intended effect is to make our regulations more responsive and to further the prudent development of congregate housing in rural America.

EFFECTIVE DATE: July 30, 1990.

FOR FURTHER INFORMATION CONTACT: Eileen Nowlin, Senior Loan Specialist, Multi-Family Housing Processing Division, Farmers Home Administration, USDA, room 5349, South Agriculture Building, Washington, DC 20250, telephone (202) 382-1608.

SUPPLEMENTARY INFORMATION:

Classification

This final rulemaking action has been reviewed under USDA procedures established in Departmental Regulation

1512-1, which implements Executive Order 12291 and has been determined to be "nonmajor" since the annual effect on the economy is less than \$100 million and there will be no significant increase in cost or prices for consumers, individual industries, Federal, State or local Government agencies, or geographic regions. Furthermore, there will be no adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States enterprises to compete with foreign based enterprises in domestic or import markets. This action is not expected to substantially affect budget outlay or affect more than one Agency or be controversial. The net result is to provide better service to rural communities.

Background/Discussion

Congregate housing is a unique form of Multiple Family Housing. It should not be confused with or be considered an expansion of an elderly housing project. Congregate housing consists of private apartments and central dining facilities in which services are provided to tenants to enable them to remain independent. Tenants must not require the supervision or additional services provided by an intermediate health care facility.

Although current FmHA regulations contain instructions on making congregate housing loans, additional and more concise guidance is essential to improve program delivery and to aid in the development of successful congregate housing. The major highlights of the revisions include:

Subpart E of Part 1944.

Arranges all instructions pertaining to congregate housing in specific areas. Differentiates between congregate housing and group homes.

Adds the definitions of "Elderly" and "Elderly family" which were inadvertently removed in the last revision to this subpart. The definitions were taken from subpart C of part 1930.

Provides additional design criteria for congregate housing and group homes.

Describes support services necessary for congregate housing and group homes; lists specific information that must be provided to FmHA on each service component.

Provides that developers without actual experience or training in the development and management of congregate housing consult with persons or entities experienced with same.

Expands the information required in market studies for congregate housing.

Contains Exhibit E which provides further guidance to applicants on the

type of information needed at the preapplication stage.

Exhibit J of subpart C of part 1930 is added and:

Details the management requirements of congregate housing and group homes.

Provides that developers without actual experience or training in the development and management of congregate housing consult with persons or entities experienced with same.

Provides further guidance on eligible tenants. Distinguishes between tenants who need the services to remain independent and tenants who do not need, but desire services to remain independent.

Stipulates that tenants who need services to remain independent may meet tenant eligibility requirements contained in FmHA Instruction 1930-C by taking services provided by the project.

Permits borrowers to maintain separate waiting lists for tenants who need services to remain independent and those who do not need, but desire services to remain independent.

Discussion of Comments

A proposed rule was published in the Federal Register (54 FR 29901) dated July 17, 1989, and invited comments for 60 days ending September 15, 1989. Fifteen comments were received during the comment period and three were received late. All comments were considered. Comments were received from different developers, legal service organizations, trade associations, nonprofit organizations, FmHA employees and other individuals.

The comments are summarized as follows:

1. Comments Regarding Congregate Housing Tenants.

Exhibit J of 1930-C, V A. One respondent stated that requiring tenants who need services to remain independent to use them as a condition of occupancy may be construed as requiring mandatory services. *Response:* Tenants who need services to remain independent generally will not be able to meet the requirements of paragraph VI B1(j) of exhibit B of subpart C of part 1930 unless they use the service(s) provided by the congregate housing project. However, the Agency does not believe that mandatory services should be required; therefore, the section has been modified to stress that tenants must meet eligibility requirements contained in exhibit B of subpart C of part 1930.

Exhibit J of 1930-C, V B. One respondent stated that tenants with the most critical need for services should be given priority for available units.

Response: The Agency has made a provision for borrowers to maintain a separate waiting list for tenants who need services to remain independent and those who do not. However, prospective tenants must be selected on a first-come first-served basis according to the chronological order of each categorized waiting list. The Agency believes that this is a less subjective way of selecting tenants. One respondent felt that the statement in this section which states, "Most tenants living in congregate housing will be independent * * *," is inconsistent with the statement in § 1944.224(a)(1) of subpart E of part 1944 which states, "Fully independent tenants who do not want to participate in the services should be encouraged to explore the availability of housing offered by noncongregate elderly projects."

Response: The Agency has reviewed these sections and has modified the language in § 1944.224(a)(1) of subpart E of part 1944 accordingly.

Exhibit J of 1930-C, V B 1 a. One respondent stated that there should be no differentiation made between those who need services and those who elect to take them. *Response:* The Agency believes that there should be an established need for congregate housing projects; therefore, no change is made to this provision. Eight respondents commented on the suggestion that 15 to 30 percent of the tenants of the project should need services to remain independent. Most recommended dropping the established mix, while some suggested increasing the percentage. *Response:* The Agency believes that project management should establish a goal concerning the number of people who need services; however, the section has been modified to delete a specific goal.

Exhibit J of 1930-C, V B 1 b. One respondent emphasized that the assessment should take into consideration tenants who are eligible for medicaid funding for services. The respondent stated that these programs often require that an assessment indicate that tenants would need intermediate care if the services were not provided. *Response:* The Agency has reviewed this section and believes that the existing language will not prohibit tenants from using services funded by medicaid. Therefore, no change to the section is being made. One respondent stated that the language in this section indicates that project management is not included initially in tenant selection since the committee would make recommendations and present them to management for concurrence. Another

respondent said that the Agency should give further clarification concerning the members of the committee. *Response:* The Agency has reviewed this section and has modified the language to state that project management should be included initially in the tenant selection process. The Agency has also given other examples of appropriate committee members. One respondent suggested that the requirement for using a selection committee be dropped.

Response: The Agency believes that tenants' needs for services must be evaluated to ensure that tenants who are suitable for congregate housing are selected. Therefore, the requirement remains. One respondent stated that the term "selection committee" be changed to "professional assessment committee" since other congregate programs use this language. *Response:* The Agency agrees and has changed the terminology to reflect the suggestion. Two respondents stated that when project management determines that a tenant can no longer remain independent, the tenant should have appeal rights. *Response:* The Agency agrees but believes that this unfavorable action is addressed by FmHA Instruction 1944-L. Therefore, no change is made.

Exhibit J of 1930-C, VI. One respondent stated that borrowers should be required to reassess tenants' ability to remain independent and document their findings. *Response:* The Agency agrees and has modified the section to require reassessment when a new tenant certification is prepared.

Exhibit J of 1930-C, VII B. One respondent stated that the last sentence of the agreement concerning a tenant's inability to pay for services may be discriminatory against very low-income tenants. The Agency has reviewed the agreement and has deleted the last sentence.

2. Comments Regarding Services Provided to Others than Tenants of FmHA Financed Congregate Housing.

Exhibit J of 1930-C, VII. One respondent stated that entities that provide meals to others should also pay a pro rata share of the owners return. One respondent stated that no lease payment should be required if the meals are provided by a local agency on aging or other nonprofit group. Two respondents suggested that nonprofit meal suppliers should be charged only a nominal lease payment since tenants of the project will also benefit from low cost meals. *Response:* The Agency agrees that only a nominal lease payment should be charged when the meals are provided by a nonprofit group; however, the payment should be enough to cover the pro rata share of operating

expense, debt service and reserve accounts. The Agency's experience is that nonprofit groups who currently provide meals in this situation pay a very nominal amount for use of the kitchen and dining facilities. Therefore, no change to this requirement is made. One respondent stated that allowing congregate housing tenants to have priority in receiving services in this situation would not be enforceable and may jeopardize the meal provider's funding. *Response:* The meal provider must enter into a service agreement with the owner of the project that guarantees the service for tenants of the project. The Agency believes that the meal provider's first responsibility should be to the tenants of the project; therefore, no change is made to this section.

3. General Comments Concerning Exhibit J of 1930-C.

Exhibit J of 1930-C, II. One respondent suggested that the definition of congregate housing be changed to say that services are "available" at the project rather than the project must "provide" the service. *Response:* The Agency believes that congregate housing projects should be responsible for providing services to tenants. Third party service providers may be used; however, the congregate project should be responsible for seeing that services are provided to tenants. No change is made.

Exhibit J of 1930-C, IV A. Two respondents agreed with the requirement that borrowers who are not experienced with congregate housing and group homes must obtain assistance from organizations or individuals experienced with congregate issues in developing management and servicing plans. *Response:* The Agency appreciates these comments and strongly concurs; the requirement has been maintained in this paragraph.

Exhibit J of 1930-C, IV B. One respondent agreed that servicing plans must specifically address the services that will be provided to congregate tenants. *Response:* The Agency appreciates the comment and has maintained the requirement in this paragraph.

Exhibit J of 1930-C, IV C. One respondent said that the profit on services should be capped. *Response:* The Agency believes that borrowers will have to provide services at a reasonable cost to assure affordability by very low- and low-income tenants. The Agency feels that any profit made would be modest and does not believe that a cap should be placed on profit from services. One respondent stated that borrowers should have firm service contracts with established providers and stated that

local agencies on aging may not be dependable over the course of time. *Response:* The Agency's experience with local areas on aging has shown that they are dependable service providers over time. Their funding may change yearly; however, their resources generally have been adequate to meet established needs. The proposed regulation states that applicants must document the availability of alternate service providers; therefore, we believe local agencies should be considered as feasible providers if they are active in the community where the housing is proposed. One respondent stated that borrowers who provide services should be required to submit a service agreement specifying the services they will provide, the cost of the services and their commitment to provide the services for at least 1 year after the project becomes operational. *Response:* Borrowers who will provide services must submit a service plan which details how the services will be provided. These plans must evidence the feasibility of the service being provided for a period that would generally exceed the length of a service agreement. Therefore, the Agency does not believe it is necessary for a borrower who provides services to enter into a service agreement with the project; therefore, no change is made.

Exhibit J of 1930-C, VB 1 c. One respondent supported separate waiting lists but said there should be an easy way to move someone who initially does not need services to the other list if the person's condition changes. *Response:* The Agency has reviewed this section and believes that the existing language would allow for such situations. Therefore, no change has been made to the section. One respondent stated that the provision for allowing separate waiting lists for tenants who need services and those who are fully independent should be dropped. *Response:* The Agency believes that two group of tenants will be served by congregate housing: Those who need services to remain independent and those who are fully independent. In order to maintain a balanced project, the Agency believes that separate waiting lists are appropriate. Therefore, no change is made.

Exhibit J of 1930-C, VB 2 a. Three respondents stated that there should be no restriction on group home borrowers requiring tenants to participate in training or rehabilitation programs sponsored by them. *Response:* The Agency agrees that there are many benefits to a tenant being enrolled in

such a program. However, there are some tenants who may be employed by another source and still meet the requirements of tenancy. Several group homes financed by FmHA have tenants who belong to borrower sponsored rehabilitation programs while other tenants are employed by outside sources. The Agency believes that tenants who are evaluated to be eligible tenants in a group homes should have access to the housing even though they may be employed by an outside source. Therefore, no change is made to the section.

Exhibit J of 1930-C, V B 2 b. One respondent stated that "out-of-state" should be added to the section to verify that people in this category can be considered for tenancy. *Response:* The Agency agrees and has added the language.

Exhibit J of 1930-C, VII A. Two respondents stated that the lease clause should also apply to group homes. *Response:* The Agency agrees and has modified the section to include group homes. One respondent stated that a provision should be included allowing for increased service cost if the cost of contracted services rises during the lease period. *Response:* The Agency believes that service providers should plan their costs well enough in advance so that cost increases can be passed on to tenants during annual lease renewals. Therefore, no change is made.

Exhibit J of 1930-C, VIII. One respondent stated that rent and service payments should be made separately. *Response:* The Agency has reviewed this section and believes that the payments can be made separately or combined. However, the Agency maintains its position that borrowers must account for the payments separately.

Exhibit J of 1930-C, X. One respondent stated that FmHA should not impose overly rigid accounting requirements. *Response:* The Agency realizes that some costs could appropriately be reflected on either the operation and maintenance budget or the service budget. The Agency believes that the current language in the section will allow borrowers to justify where such costs should be accounted for; therefore, no change is made to the section.

4. Comments Regarding Design Criteria [These comments refer to § 1944.224(2)].

One respondent said that the Agency should encourage single structure buildings so that tenants will not have to go outside to reach common areas. *Response:* The Agency agrees that routes between living units and service

areas must be carefully considered and designed. The FmHA Design Guide, which is referenced in paragraph (ii) of this section, will be modified to recommend that these routes be located in interior corridors or enclosed all-weather walkways. The general requirement that these routes be safe, comfortable and minimal in length will remain unchanged.

One respondent suggested that a preliminary design conference to include a representative of FmHA, the developer, project management, the service provider and project architect, be held prior to the Agency issuing an AD 622. *Response:* We agree that such a conference is a prudent business practice that benefits all parties involved and is often encouraged by our field office managers. However, the Agency believes that it would be inappropriate to require or regulate this practice; therefore, no change is made.

Section 1944.224(a)(2)(i). Three respondents felt that we should change the requirement that sites be located as close to services as possible. One felt that the cost of such sites would be prohibitive; one said that locating projects in truly residential areas is more important; and two said that the Agency should put more emphasis on the time it takes to get to services. *Response:* Although it is desirable to have services within walking distance of congregate projects, the Agency realizes that cost is a factor in many cases and that locating projects in established residential areas is important. FmHA also agrees that more emphasis should be given to the time it takes to get to services since adequate transportation must be provided to tenants of a congregate project. The Agency has, therefore, modified the language concerning site selection to reflect these views.

Section 1944.224(a)(2)(iii). One respondent said that handrails should be required on both sides of a common area hall. *Response:* The Agency realizes that handrails on both sides of a corridor would maximize assistance to residents; however, they would also create more of an institutional character to the interior spaces, which we are trying to avoid or minimize. The Agency believes that handrails on one side of public corridors provide reasonable assistance for the number of anticipated users; therefore, no change is made.

5. Comments Regarding Support Services.

Section 1944.224(a)(4). One respondent stated that all services should be mandatory for all congregate housing tenants. One respondent stated that tenants should be made to take at

least one meal daily. *Response:* The Agency believes that tenants who do not require services to remain independent should be given a choice concerning whether or not to use services. Borrowers should market congregate housing to show the desirability of using services. No change is made to this section.

Section 1944.224(a)(4). One respondent stated that the language was not consistent concerning services that "should" be provided and services that "must" be provided. *Response:* The Agency has modified language in this section to reflect that certain services must be made available to tenants of FmHA financed congregate projects.

Section 1944.224(a)(5)(i). One respondent said that meals should be "available" to tenants of a congregate project, not "provided" by the project. *Response:* The Agency believes that support services should be provided by congregate projects; therefore, no change will be made.

Section 1944.224(a)(5)(i)(B). One respondent stated that this section seems to allow congregate borrowers to deny occupancy to tenants who do not elect to participate in the meal service. *Response:* The Agency agrees that the language could be misinterpreted and has modified the section. Two respondents feel that priority should be given to tenants who elect to use the meal service. *Response:* The Agency has no basis for allowing priority for those who choose to take meals provided by the project. However, the Agency does make a distinction between those who need services to remain independent and those who elect to use them; priority may be given to those who need services according to provisions in the regulation. One respondent said that the regulations should clearly state that borrowers have the option of being the meal provider. *Response:* The Agency has reviewed the section and believes that there is no confusion concerning a borrower's option to provide services. Therefore, no change is made.

Section 1944.224(a)(5)(iii). One respondent stated that housekeeping should be "available" to congregate housing tenants, not "provided." *Response:* The Agency believes that congregate projects should be responsible for providing services to tenants. Borrowers may engage a third party provider, but it is the borrowers' responsibility to ensure that services will be provided to tenants. Therefore, no change is made.

Section 1944.224(a)(5)(iv). One respondent said that personal services should not be required in FmHA

financed congregate housing. *Response:* The Agency believes that some congregate housing tenants may need nonmedical personal services in order to remain independent. Therefore, this requirement is not changed.

Section 1944.224(a)(5). One respondent stated that congregate housing applicants should provide a list of potential alternate service providers without regard to the likelihood of their availability to provide services.

Response: The Agency believes that applicants must document the availability of alternate service providers and their ability and willingness to provide services for tenants of the project. Therefore, no change is made. One respondent stated that outside service providers should not be relied on except in small projects. *Response:* The Agency feels that each congregate proposal should be judged on its own merits and does not want to prohibit outside providers if they are feasible. Therefore, no change is made.

Section 1944.224(a)(6). One respondent stated that a letter of commitment from each service provider is unreasonable at the preapplication stage if the provider depends upon funds that are allocated annually. *Response:* The Agency agrees that the letter of commitment can be made based on the availability of funding and has changed the section. The section will also stress the importance of alternate service providers in such cases.

6. Comments Regarding Services Provided to People Who Are Not Tenants of FmHA Financed Congregate Housing. (This refers to § 1944.224(a)(7)). Two respondents stated that, if a nonprofit organization is providing meals and the project has been designated as a meal site to serve other elderly residents of the community, FmHA should not require any payment from the organization. *Response:* The Agency believes that tenants should not have to pay for the extra costs involved with a designated meal site, even though these costs generally are nominal. Therefore, no change is made to this requirement.

7. Comments Regarding Group Home Tenants.

Section 1944.224(b). Two respondents stated that many tenants of group homes, especially those designated for the developmentally disabled or mentally impaired, need some supervision at all times. They suggested that the Agency drop the prohibition against "constant supervision" in this section. *Response:* The Agency agrees and has modified the section in accordance with the suggestion.

Section 1944.224(b)(2). Two respondents stated that shelter cost should be kept separate from service cost in group homes. *Response:* The Agency agrees and has deleted the section.

8. Comments Regarding Market Studies for Congregate Housing and Group Homes.

Section 1944.224(c). Three respondents suggested that market studies should establish the demand for congregate housing by people over 70 and address the growth trends for the elderly over 85. *Response:* The Agency agrees and has incorporated this into the section. Two respondents stated that more specific income information should be included in market studies. One respondent suggested that the local social security office be contacted for income information that is specific to the age group that would be eligible for congregate housing. *Response:* The Agency agrees and has incorporated this into the section. One respondent stated that market studies should include information on local services available, local needs for services and the ability of service providers to meet the needs in the community proposed. *Response:* The Agency agrees and has modified the section to include this requirement.

Section 1944.224(c)(1). Six respondents said that the Agency should drop the requirement for mail-out surveys to demonstrate the need for congregate housing. *Response:* The Agency never intended that this be a requirement; it was an option that applicants could consider if adequate information on the elderly population was not available from another source. The Agency has reviewed this section and modified the language to reinforce that a mail-out survey can be conducted at the option of the applicant.

9. General Comments of Section 1944.224 of Subpart E of Part 1944.

Three respondents stated that separate funding for congregate proposals should be maintained in FmHA's National Office. One respondent said that no funding priority should be given for congregate proposals. *Response:* Funding allocations are provided to FmHA field offices on an annual basis. Subpart L of part 1940 is the vehicle used for allocating funds to field offices; therefore, any special consideration for funding would be expounded in that regulation. That regulation currently makes no provision for a special allocation of funds for congregate housing projects.

Two respondents stated that the regulation should give guidance concerning the items that can

appropriately be financed with FmHA loan funds. *Response:* The Agency agrees and has added a section which further describes eligible loan items.

Two respondents stated that applicants who are inexperienced with congregate housing should be required to contract with an experienced consultant to prepare the proposal. *Response:* The Agency does not believe it is appropriate to mandate applicants to obtain a consultant since the cost of a consultant would not be an eligible loan item. We believe that a prudent applicant who has little or no experience with congregate housing will see the value of engaging such a person to enhance the viability of the proposal. Therefore, no change is made.

One respondent stated that "strongly recommending" a consultant in preparing a preapplication conflicts with § 1944.224(a)(3) of subpart E of part 1944 which "requires" applicants to seek assistance from organizations or individuals experienced with congregate issues in developing the management and servicing plans. *Response:* The Agency believes that applicants can consult with experienced people on congregate management issues at a reasonable expense and that obtaining this specific information will greatly enhance the success of the project. Therefore, no change is made to this requirement.

Programs Affected

These programs/activities are listed in the Catalog of Federal Domestic Assistance under Numbers 10.415—Rural Rental Housing Loans and 10.427—Rural Rental Assistance Payments.

Intergovernmental Consultation

For the reasons set forth in the Final Rule related Notice(s) to 7 CFR part 3015, subpart V, programs 10.415—Rural Rental Housing Loans and 10.427—Rural Rental Assistance Payments are subject to Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1949, Public Law 91-90, an Environmental Impact Statement is not required.

Regulatory Flexibility Act

This final rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601-612). The undersigned has determined and certified by signature of this document that this rule will not have a significant economic impact on a substantial number of small entities since this rulemaking action does not involve a new or expanded program.

List of Subjects**7 CFR Part 1822**

Aged, Loan programs—Housing and community development, Low and moderate income housing, Mortgages, Nonprofit organizations, Rent subsidies, Rural housing.

7 CFR Part 1930

Accounting, Administrative practice and procedure, Grant programs—Housing and community development, Loan programs—Housing and community development, Low and moderate income housing—Rental, Reporting requirements.

7 CFR Part 1944

Administrative practice and procedure, Aged, Handicapped, Loan programs—Housing and community development, Low and moderate income housing—Rental, Mortgages, Nonprofit organizations, Rent subsidies, Rural housing.

7 CFR Part 1965

Administrative practice and procedure, Low and moderate income housing—Rental, Mortgages.

Therefore, chapter XVIII, title 7, Code of Federal Regulations, is amended as follows:

PART 1822—RURAL HOUSING LOANS AND GRANTS

1. The authority citation for part 1822 continues to read as follows:

Authority: 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70

Subpart F—Rural Cooperative Housing Loans

2. Section 1822.232 is amended by revising paragraphs (h) and (i) to read as follows:

§ 1822.232 Definitions.

(h) References in subpart E of part 1944 of this chapter to "rental housing," "rental basis," "tenant," "rents," and "organization" mean "cooperative housing," "cooperative basis,"

"occupant," "occupancy charges," and "cooperative."

(i) Definitions in § 1944.205 of subpart E of part 1944, as appropriate, will apply.

§ 1822.233 [Amended]

3. In § 1822.233, paragraph (a)(1) is amended by changing the reference from "§ 1944.205(f)" to "§ 1944.205".

PART 1930—GENERAL

4. The authority citation for Part 1930 continues to read as follows:

Authority: 42 U.S.C. 1480; 7 CFR 2.23; 7 CFR 2.70.

Subpart C—Management and Supervision of Multiple Family Housing Borrowers and Grant Recipients

5-6. Section 1930.134 is revised to read as follows:

§ 1930.134 FmHA records.

FmHA officials will maintain records in accordance with subparts A and G of part 2033 (available in any FmHA office).

7. Section 1930.141 is amended by revising paragraph (a) and (d), redesignating paragraphs (f) through (i) as paragraphs (g) through (j), and adding a new paragraph (f) to read as follows:

§ 1930.141 Materials to be provided borrower/applicant.

(a) Exhibits B and B-1 through B-9 of this subpart, when applicable.

(d) Exhibit E of this subpart.

(f) Exhibits J, J-1 and J-2 of this subpart, when applicable.

8. Exhibit B to subpart C, paragraph II is amended by redesignating subparagraphs LL through PP as OO through SS, and subparagraphs N through KK as O through LL, adding new paragraphs N, MM, and NN, and revising paragraph G to read as follows:

Exhibit B to Subpart C, Part 1930—Multiple Housing Management Handbook**II. Definitions**

G. *Congregate housing.* Residential housing consisting of private apartments and central dining facilities in which services are provided to tenants to enable them to remain independent. Tenants must not require the supervision or additional services provided by an intermediate health care facility.

N. *Group home.* Housing that is occupied by elderly, handicapped or disabled tenants sharing living space within a rental unit in which a resident assistant may be required. A group home is generally designed as a single household dwelling but can be a multi-unit structure.

MM. *Service agreement.* A written agreement between the borrower and the congregate or group home service provider detailing the specific service to be provided, the cost of the service and the length of time the service will be provided.

NN. *Service plan.* A written plan describing how services will be provided to congregate housing or group home projects. At a minimum, the plan must specify the services to be provided, the frequency of the services, who will provide the services, how tenants will be advised of the availability of services, and the staff needed to provide the services.

Exhibit B to Subpart C [Amended]

9. Paragraph VI B1 is amended by removing subparagraphs j and l, and redesignating subparagraphs k through o as subparagraphs j through m respectively.

Exhibit B to Subpart C [Amended]

10. Paragraph VI C3 is amended by revising subparagraph (f) to read as follows:

VI. Renting Procedure

(C) * * *

(3) * * *

(f) In congregate housing projects, priority can be given to tenants who need services to remain independent in accordance with exhibit J of this subpart.

Exhibit B to Subpart C [Amended]

11. Paragraph VIII B is amended by removing subparagraph 7.

12. Exhibit J is added to read as follows:

Exhibit J of Subpart C—Management of Congregate Housing and Group Homes**I. Purpose**

This exhibit prescribes additional requirements for the management of congregate housing and group homes. It applies in addition to other requirements in this subpart.

II. Definitions

Congregate housing. Residential housing consisting of private apartments and central dining facilities in which services are provided to tenants to enable them to remain independent. Tenants must not require the supervision or additional services provided by an intermediate health care facility.

Group home. Housing that is occupied by elderly, handicapped or disabled tenants

sharing living space within a rental unit in which a resident assistant may be required. A group home is generally designed as a single household dwelling but can also be a multi-unit structure.

Service agreement. A written agreement between the borrower and the congregate or group home service provider detailing the specific service to be provided, the cost of the service and the length of time the service will be provided.

Service plan. A written plan describing how services will be provided to congregate housing or group home projects. At a minimum, the plan must specify the services to be provided, the frequency of the services, who will provide the services, how tenants will be advised of the availability of services, and the staff needed to provide the services.

III. Rent Subsidy Opportunities

Congregate housing and group homes are subject to the provisions of paragraph IV of exhibit B of this subpart. Subsidy discussed in that paragraph cannot be used to pay for services in congregate housing or group homes.

IV. Management operations

Borrowers must comply with paragraph V of exhibit B of this subpart in managing congregate housing and group homes. In addition, borrowers must submit a service plan that explains services will be provided.

A. Borrowers experience. Borrowers and management agents must outline their experience and plans for providing congregate and group home services when completing the management questionnaire in either exhibit B-4 or B-5 of this subpart. Borrowers who are not experienced with congregate housing/group homes must obtain assistance from organizations or individuals experienced with congregate issues in developing management and servicing plans. The service provider's experience and ability to furnish the services must be documented.

B. Service plans. Congregate housing/group home borrowers must submit a service plan as defined in paragraph II of this exhibit. See exhibit E of subpart E of part 1944 for guidance on the issues that should be included in the plan. The service plan will be an addendum to the management plan when appropriate, or subject to the signature and authorization requirements of the management plan when the service provider is not the borrower or management agent.

C. Service agreements. Borrowers must submit a service agreement for each service they do not provide directly. The agreement must stipulate the specific service to be provided, the cost of the service and the length of time the service will be provided. The service agreement will be an addendum to the management agreement when appropriate, or subject to the signature and authorization requirements of the management agreement when the service provider is not the borrower or management agent. Initial service agreements must be effective for at least 1 year after the project becomes operational. Subsequent agreements must be effective for at least one year.

V. Renting Procedure

In addition to meeting the conditions of paragraph VI of exhibit B of this subpart, borrowers must meet the following conditions.

A. Eligible tenants. 1. Tenants must meet the general provisions of paragraph VI B of exhibit B of this subpart and be eligible to occupy elderly housing as defined in paragraph VI B 1 i of exhibit B of this subpart. Borrowers must be careful to ensure that all tenants, especially those who need the services to remain independent, can live independently in the project with the scope of services offered.

2. Tenants who need the services to remain independent may have a physical limitation that would make them ineligible tenants in a typical elderly RRH project. Tenants who need services to remain independent may meet the tenant eligibility requirements contained in paragraph VI B 1 i of exhibit B of this subpart by taking the services provided by the project.

B. Tenant selection. Borrowers must meet the provisions of paragraph VI F of exhibit B of this subpart. In congregate housing and group homes, a further critical dimension is added for the selection and placement of tenants. This involves determining the ability of a tenant to sustain independence with the support services provided. Borrowers should be further guided by the following in selecting tenants for congregate housing and group homes:

1. Congregate housing—a. Tenant mix. Most tenants living in congregate housing will be people who can live independently and will be able to extend their independence by using services available from the project.

Some tenants may need services to enable them to remain independent. Borrowers must establish a written plan for ensuring an appropriate mix of tenants. If feasible, project management should be consulted when establishing the tenant mix. The plan should establish a maximum percentage of tenants who need services to remain independent. As existing tenants age, the percentage may increase. FmHA must concur with the proposed plan.

b. Determining ability to be independent. (1) An evaluation of the ability of tenants to sustain independence with the support services provided by the project must be made. This evaluation must be made by a qualified professional assessment committee, which includes project management, a professional medical member, and others deemed appropriate by project management (i.e., social service caseworkers, representatives of elderly advocacy groups, clergymen, etc.). The assessments should be presented to project management for concurrence. A tenant's likelihood of sustaining independence as a result of living in congregate housing should be verified by one of the following methods:

(i) Certification by a physician or an agency responsible for support services as to a person's ability to remain independent with assistance from services.

(ii) By the use of any objective guide, such as exhibits J-1 and J-2 of this subpart.

(2) When a determination is made concerning a tenant's need for services, he/

she will be notified and placed on an appropriate waiting list and the tenant file and/or lease will be documented accordingly.

c. Waiting lists. To sustain a balanced mix of tenants, management may maintain a separate waiting list for fully independent tenants and tenants who need services to remain independent. Management may choose tenants in order to assure a balanced project in accordance with paragraph V B 1(a) of this exhibit. Selection of new tenants should be based on the predetermined tenant mix ratio. If necessary to maintain a balanced project, fully independent tenants may be chosen over tenants who need services or vice versa. The other provisions contained in paragraph VI F of exhibit B of this subpart concerning waiting lists are applicable.

2. Group home. A group home may limit occupancy to a specific group of tenants. For example, a group home may limit occupancy to eligible elderly tenants, developmentally disabled, or mentally impaired tenants. This limitation will be outlined in the borrower's management plan. The following will apply to group homes:

a. Tenants of group homes cannot be required to be a part of an ongoing training or rehabilitation program sponsored by the applicant or other organization.

b. Tenants should be selected from the local area before considering other areas.

c. Determining per unit rental rates for group living arrangements. A "unit" in a group home consists of the space occupied by a specific tenant household. It may be a traditional apartment unit, a bedroom or a portion of a bedroom. Rents are determined as follows:

1. When all units are of equal size, divide operational costs equally.

2. When all units are not of equal size, determine the size of each unit and divide operational costs accordingly.

a. The size of traditional units is their square footage.

b. The size of nontraditional units is the bedroom or portion of bedroom occupied by the household and portion of the common area to be used by all potential units in nontraditional units.

3. A unit occupied by a resident assistant is not considered a revenue producing unit and would be excluded from the rent determination.

VI. Verification and Certification of Tenant Income, Ability to Live Independently and/or Employment

The provisions of paragraph VII of exhibit B of this subpart apply. In addition to recertifying income, management must reassess the ability of each tenant to remain independent with the services provided by the project. Informal reassessment should be an ongoing process; however, a formal reassessment that uses the same criteria as the initial assessment must be done when a recertification of tenant income is prepared.

VII. Lease Agreements

In addition to the conditions contained in paragraph VIII of exhibit B of this subpart, the following should be addressed:

A. *Tenants who need services to remain independent.* If a tenant needs services to remain independent, the lease must contain the following clause:

"I agree that I need the following services in order for me to live independently in this congregate housing/group home project. (List necessary services.) I understand that I must pay a monthly charge of \$_____ for the services and that this payment will be in addition to my monthly rent payment."

B. *Inability to remain independent.* The following clause should be included in all leases for all congregate housing/group home tenants:

"I understand that management will periodically reassess my ability to live independently, applying the same criteria that was used to determine my initial eligibility for residency. If management determines that I can no longer live independently without services, I understand that choosing not to use them could render me an ineligible tenant in the project. If management determines that I have become physically or mentally unable to live independently in the project even with the services provided, I will voluntarily move from this congregate housing/group home project."

C. *Services provided to other than tenants of FmHA financed congregate housing.* If the meal facility serves others than the tenants of the project, the applicant must obtain a lease from the services provider and require payment sufficient to cover the annual operating expenses, debt services and reserve account attributable to the portion of increased space that is in excess of the needs of the tenants in the project. Tenants of the congregate housing must have priority in receiving the services. When the facilities are provided with loan funds, the following condition must be met:

1. The services to be provided and the fees to be charged (if any) must be fully documented in the service plan, if provided by the applicant, or in the service plan and lease agreement if the services will be provided by others. Any lease agreement must be approved by the State Director or the loan approving official and contain the following statement:

"This agreement will not be effective until approved by the State Director of the Farmers Home Administration, U.S. Department of Agriculture, or the State Director's delegated representative."

VIII. Rent Collection

The provisions of paragraph IX of exhibit B of this subpart will apply for the services as well as rent. Tenants must pay charges for the services as documented in their lease. The payment for rent or services may be made separately or combined; however, payments for rent and services must be accounted for separately.

IX. Borrower Project Budgets

Borrowers must separate the revenue and expenses of project operations from the service component. Forms FmHA 1930-6, "Monthly Report," 1930-7, "Statement of Budget and Cash Flow," and 1930-8, "Year End Report and Analysis for Fiscal Year

Ending _____," must reflect project operations only.

X. Accounting and Reporting Requirements and Financial Management Analysis

Borrowers must maintain separate financial records for the operation and maintenance of the project and the service component. Funds allocated to the operation and maintenance of the project cannot be used to supplement the cost of services. Detailed financial reports on the service component will not be required unless specifically requested by FmHA, but the project audit or verification of accounts must allocate revenue and expense between project operations and the service component.

XI. Termination of Tenancy and Eviction

To ensure that congregate housing remains residential and noninstitutional in nature, borrowers must explain clearly to applicants that:

A. When tenants can no longer remain independent without using the services, they may meet the tenant eligibility requirements contained in paragraph VI B 1 i of exhibit B of this subpart by taking the services provided by the project.

B. As a condition of occupancy, tenants must agree to vacate the project when they can no longer remain independent even though they are assisted with services.

PART 1944—HOUSING

13. The authority citation for part 1944 continues to read as follows:

Authority: 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart E—Rural Rental Housing Loan Policies, Procedures, and Authorizations

14. Section 1944.205 is amended by revising the definitions of "Congregate housing," "Elderly," "Elderly family," "Handicap," and "Limited profit basis," revising and retitling the definition of "Group living" to "Group home," and adding alphabetically the definitions of "Service agreement" and "Service plan" to read as follows:

§ 1944.205 Definitions.

* * * * *

Congregate housing. Residential housing consisting of private apartments and central dining facilities in which services are provided to tenants to enable them to remain independent. Tenants must not require the supervision or additional services provided by an intermediate health care facility.

* * * * *

Elderly (Senior Citizen). A person who is at least 62 years old. The term elderly (senior citizen) also means persons with handicaps or disabilities, regardless of age as defined herein.

(a) Disabled person with disability. A person who is considered disabled if the person meets the criteria of either of the following:

(1) The person has an inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which:

(i) Has lasted or can be expected to last for a continuous period of not less than 12 months, or which can be expected to result in death,

(ii) Substantially impedes the ability to live independently,

(iii) Is of such a nature that such ability could be improved by more suitable housing conditions, or

(2) In the case of a blind person who is at least 55 years old (within the meaning of blindness as determined in section 223 of The Social Security Act), is unable, because of the blindness, to engage in substantial gainful activity in which he/she has previously engaged with some regularity over a substantial period of time.

Note: Receipt of veteran's benefits for disability, whether service oriented or otherwise, does not automatically establish disability.

(b) The person has a developmental disability; a severe, chronic disability which:

(1) Is attributable to a mental or physical impairment or combination of mental or physical impairment;

(2) Was manifested before age 22;

(3) Is likely to continue indefinitely;

(4) Results in substantial functional limitations in three or more of the following areas of major life activity:

(i) Self-care
(ii) Receptive and expressive language
(iii) Learning
(iv) Mobility
(v) Self-direction
(vi) Capacity for independent living
(vii) Economic self-sufficiency

(5) Reflects the person's need for a combination and sequence of special, interdisciplinary or generic care, or treatment, or for other services which are of lifelong or extended duration and are individually planned and coordinated.

(c) Handicapped person is a person with a physical or mental impairment that:

(1) Is expected to be a long-continued and indefinite duration;

(2) Substantially impedes the person's ability to live independently and could be improved by more suitable housing conditions;

(3) Is of such a nature that the person's ability to live independently

could be improved by more suitable housing conditions.

(d) The term **handicapped** (or **handicap**) further means, with respect to a person, a physical or mental impairment which substantially limits one or more major life activities; a record of such an impairment; or being regarded as having such an impairment. This term does not include current illegal use of or addiction to a controlled substance. As used in this definition physical or mental impairment includes:

(1) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems:

Neurological; musculoskeletal; special senses organs; respiratory; including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatics; skin; and endocrine; or

(2) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction (other than addiction caused by current, illegal use of a controlled substance) and alcoholism.

(e) Major life activities means functions such as caring for one's self, performing major tasks, walking, seeing, hearing, speaking, breathing, learning and working.

(f) Has a record of such an impairment means has a history of, or has been misclassified as having a mental or physical impairment that substantially limits one or more of major life activities.

(g) Is regarded as having an impairment means;

(1) Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by another person as constituting such a limitation;

(2) Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment; or

(3) Has one of the impairments defined in paragraph (d)(1) and (d)(2) of this definition but is treated by another person as having such an impairment.

Elderly family. A household where the tenant or co-tenant is at least 62 years old or is disabled or handicapped

as defined in this section. An elderly family may include a person(s) younger than 62 years of age who is essential to the care of the disabled and/or handicapped person's care and well being. (To receive an elderly family deduction, the elderly, disabled or handicapped person must be the tenant or co-tenant.)

Group home. Housing that is occupied by elderly, handicapped or disabled tenants sharing living space within a rental unit in which a resident assistant may be required. A group home is generally designed as a single household dwelling but can be a multi-unit structure.

Handicap. (See definition of "Elderly.")

Limited profit basis. An individual or organization applicant who, in order to obtain interest credit assistance, will agree to limit the amount of profit to be obtained. Applicants operating on this basis will be permitted to receive a return on their initial investment in accordance with the requirements outlined in § 1944.215 of this subpart. The applicant will legally obligate itself to regulate rents, charges, rate of return, and methods of operation.

Service agreement. A written agreement between the borrower and the congregate or group home service provider detailing the specific service to be provided, the cost of the service and length of time the service will be provided.

Service plan. A written plan describing how services will be provided to congregate housing or group home projects. At a minimum, the plan must specify the services to be provided, the frequency of the services, who will provide the services, how tenants will be advised of the availability of services, and the staff needed to provide the services.

§ 1944.212 [Amended]

15. Section 1944.212(e)(3) is amended by removing all but the first two sentences, including subparagraphs (i), (ii), and (iii).

§ 1944.213 [Amended]

16. Section 1944.213 is amended by removing paragraph (b)(5), and redesignating paragraphs (b)(6) through (b)(12) as paragraphs (b)(5) through (b)(11) respectively.

17. Section 1944.215 is amended by removing paragraph (c), redesignating

paragraphs (d) through (u) as paragraphs (c) through (t) respectively, and amending redesignated paragraph (h) by removing paragraphs (h) (1) and (2), and revising paragraph (b)(2) to read as follows:

§ 1944.215 Special conditions.

• • • • •

(b) • • •

(2) Consist of multi-unit type housing with two or more units and appropriate related facilities except for the conversion of section 502 inventory housing as covered in § 1944.212(o) of this subpart, manufactured homes and group homes.

• • • • •

18. Section 1944.222 is amended by revising paragraph (d) to read as follows:

§ 1944.222 Technical, legal and other services.

• • • • •

(d) *Compliance with Federal, state and local codes, regulations and ordinances.* Planning, construction and operation of housing financed with an RRH loan will conform with applicable laws, ordinances, codes and regulations (including any licensing required governing such matters as construction, heating, plumbing, electrical installation, fire prevention, health, sanitation, use and occupancy).

• • • • •

19. Section 1944.224 is added to read as follows:

§ 1944.224 Supplemental requirements for congregate housing and group homes.

This section includes additional provisions that apply to the making of loans for congregate housing and group homes. It will apply in addition to all other applicable requirements contained elsewhere in this subpart. Congregate housing and group homes are types of section 515 RRH that require a broader commitment from applicants to ensure that needed and desired services will be provided to prospective tenants. The concept may not be desired or feasible in all market areas. Congregate housing is unique and has many components. It is not merely an elderly housing project with services. It must be designed and managed to meet the needs of aging tenants. The management of congregate housing requires supervision of support services and more interaction and oversight of tenants. We strongly recommend that applicants who have not dealt with this type of housing obtain assistance from organizations or individuals who have experience in

planning and designing congregate housing.

(a) *Congregate housing.* Congregate housing will create an environment that will enable fully independent individuals to maintain their independence longer by making available nutritious meals and other services that can enhance their independence. Congregate housing will also help people who need some services to extend an independent lifestyle.

(1) *Eligible tenants.* Eligible tenants are described in § 1944.205 of this subpart and paragraph V A of exhibit J of subpart C of part 1930 of this chapter. Tenants who need the services to remain independent may meet the tenant eligibility requirements contained in paragraph VI B 1 i of exhibit B of subpart C of part 1930 of this chapter by taking the services provided by the project. Fully independent tenants who do not want to participate in the services may be more suitable for noncongregate elderly projects.

(2) *Design criteria.* Applicants must pay particular attention to the layout of the structure and the effect of design elements on project management and ongoing operations. Applicants should engage the services of an architect experienced in congregate design. The initial planning of congregate housing should include input on design considerations from project management to prevent the potential long-term effects of poorly conceived design on operations. Congregate housing must be planned and developed in accordance with subparts A and C of part 1924 of this chapter. In addition, it must meet the following design criteria:

(i) Applicants must pay particular attention to the site requirements contained in § 1944.215(o) of this subpart. Congregate housing should be located as close to services and shopping as possible, considering the availability of affordable residential sites. The time it takes to reach services is also important especially when considering potential medical emergencies.

(ii) Facilities needed to accommodate the services described in § 1944.224 (a)(5) of this subpart must be designed in accordance with acceptable practices. Specific design guidelines are provided in chapter 1 of Guide 2 of subpart A of part 1924 of this chapter. These facilities may be larger than necessary to meet the tenants' requirements if they are needed in the community and other sources of funds are available to pay a pro rata share of the cost.

(iii) The decreasing physical and mental capabilities of the tenants must

be considered in the design. The walkways and corridors between living units and the support service facilities must be safe, comfortable and minimal in length. Handrails that comply with the Uniform Federal Accessibility Standards must be provided on at least one side of all public corridors.

(iv) Areas used by the tenants will be separated as much as possible from areas needed for delivery of food and supplies and other building services. Interior spaces and finish materials must be residential in character and designed to help prevent tenants from becoming disoriented within the building(s).

(v) Emergency lighting must be provided in every public space, corridor, stairway, elevator and other means of egress.

(vi) The entrances to all living units must be on a route accessible to the physically handicapped. Living units accessible only via exterior steps or interior stairs will not be acceptable.

(vii) The size of rooms and spaces in the living units must be comparable to units provided in other housing for the elderly. Kitchen facilities must be provided in all living units and include, as a minimum, a cooktop, oven, sink, refrigerator and a food preparation surface.

(viii) The bathroom and one bedroom in each living unit, and any public toilet rooms, must be furnished with an emergency call system that is appropriate for the size and management of the housing facility.

(3) *Limitation on use of loan funds.* Loan funds cannot be used for:

(i) Items which do not become affixed to the real estate security, such as special portable equipment, furnishings, kitchen bars, dining ware, eating utensils, movable tables and chairs, etc. Congregate housing projects require additional items that will not become affixed to the real estate. Developers are responsible for ensuring that these items are made available to the project. The initial operating capital can be used for these items in accordance with § 1944.211(a)(6)(ii) of this subpart.

(ii) Specialized equipment for training and therapy.

(iii) Operating capital for a central dining facility.

(4) *Management of congregate projects.* Applicants must meet the provisions of exhibit J of subpart C of part 1930 of this chapter in managing congregate housing. In addition to the elements of managing a typical rural rental housing project, congregate housing requires increased management experience and skills. Delivery of services, oversight of tenants and the decisionmaking process of tenant

selection add a unique dimension to prudent management. The success or failure of a project will rely heavily upon management effectiveness and delivery of services. Applicants who are not experienced with congregate housing must seek assistance from organizations or individuals experienced with congregate issues in developing the management and servicing plans. A separate plan detailing the delivery of services must be submitted with the preapplication. If the applicant will be the service provider, it must also submit separate budgets for operation and maintenance of the project and services.

(5) *Support services.* Exhibit E of this subpart must be addressed in planning services. Adequate services must be offered to extend the independence of tenants and be reasonably priced to ensure affordability by very low- and low-income tenants. A wide variety of services may be offered; however, the following services must be provided:

(i) *Meals.* Since some tenants will depend on the meal service as their only sustenance, at least one cooked meal a day, 7 days a week, must be provided. There may be cases where the meal provider does not furnish meals on a daily basis. On days the meal provider does not furnish meals, an alternate source must provide meals to tenants who are not inclined to prepare their own meals. The following conditions apply to meals:

(A) To ensure that the meals are wholesome and meet the needs of individual tenants, a professionally trained dietitian or nutritionist must be involved in planning the menus.

(B) The feasibility of sustained meal service may be dependent on the number of people who elect to use it. Congregate housing borrowers should actively solicit tenant participation in the meal service if the economic feasibility of the service depends on user charges.

(C) If the entity that operates the service is eligible to accept food stamps under the regulations of the Food and Nutrition Service (FNS) of the United States Department of Agriculture (USDA), the entity must be authorized by FNS to accept food stamps from tenants for the purchase of meals.

(ii) *Transportation.* Transportation must be provided to the project on a fixed schedule based on tenant needs. Applicants are encouraged to work with public and private transportation sources to develop a dependable and economical method for providing this service. If these sources cannot provide adequate transportation, the applicant

must develop a project-sponsored transportation system.

(iii) *Housekeeping.* Housekeeping services must be provided to tenants who require assistance in keeping their units clean. Light housekeeping tasks, such as dusting, vacuuming, floor washing, bathroom cleaning and laundry for bedding, generally should be provided on a weekly basis. Heavier tasks, such as oven cleaning, window cleaning and drapery cleaning, should be provided periodically.

(iv) *Personal services.* Limited nonmedical personal services must be made available to tenants who need them to remain independent. Personal services can include such items as assistance with personal hygiene, nutrition counseling and general health screening. They do not include recurring medical assistance such as dispensing medication or constant medical supervision. Space may be included in the project for a small beauty shop and health screening area. Applicants may want to consider contracting for personal services to assure their continued and dependable availability to tenants.

(v) *Recreation/social.* Recreational and social activities must be offered to tenants to encourage interest in a variety of areas. Areas such as hobby and craft classes, special dinners and wellness exercise classes could be considered.

(6) *Service providers.* Service must be provided at a cost that can be afforded by very low-, low- and moderate-income tenants. Applicants should explore as many service providers as possible to ensure services at the most reasonable cost. Applicants must research alternative service providers since the original provider may be unable to furnish service in the future. If feasible, project management should be consulted concerning alternative service providers since they may have experience with available sources in the area. Documentation concerning alternative services must be submitted as part of the preapplication. Alternative sources must be documented even if the applicant plans to use onsite personnel for services. The availability of services from alternative sources can enhance a proposal's feasibility since long-term services are crucial to the success of congregate housing.

(7) *General service requirements.* Applicants must provide a plan which addresses the long-term availability of assistance from service providers. As a part of the preapplication, applicants must provide a letter of commitment from each service provider detailing its ability and willingness to provide

services. This letter must identify the type, scope, cost, term and any licensing requirements of services that will be provided to the project. If a local agency on aging will provide a service, the commitment can be contingent on the agency maintaining its level of funding. In these cases, it is imperative that applicants document the availability of alternative sources as required in 1944.224(a)(6) of this section. As a part of the final application, applicants must provide a service agreement detailing the information contained in the letter of commitment. Initial service agreements must be effective for at least 1 year after the project becomes operational. Subsequent agreements must be effective for at least 1 year. Applicants should refer to paragraph IV of exhibit J of subpart C of part 1930 for further guidance.

(8) *Services provided to people who are not tenants of FmHA financed congregate housing.* If the meal facility serves people who are not tenants of the project, the applicant must obtain a lease from the service provider and require payment sufficient to cover the annual operating expenses, debt service and reserve account attributable to the portion of increased space that is in excess of the needs of tenants in the project. In most cases, this will be a negligible amount that the meal provider can afford to pay. Applicants should refer to paragraph VII C of exhibit J of subpart C of part 1930 of this chapter for further guidance.

(b) *Group homes.* Group homes will provide housing in a residential environment for individuals capable of caring for themselves in the basic functions of everyday living. Group homes may be designated for elderly, disabled or other handicapped tenants as defined in § 1944.205 of this subpart. Appropriate common areas and facilities should be included to encourage participation by the tenants under the direction of a staff person in sharing the meal preparation, housekeeping, social and recreational activities within the home. It is not the goal of group homes to provide housing for tenants requiring constant medical attention. The following conditions are applicable to group homes:

(1) A group home is generally designed as a single household dwelling; however, it can also be a small multi-unit structure. Specific design guidelines are provided in chapter 1 of Guide 2 of subpart A of part 1924 of this chapter. In addition, group homes must meet the following design criteria:

(i) The potential decreasing physical and mental capabilities of tenants must be considered in the design.

(ii) Interior spaces and finish materials must be residential in character.

(iii) Emergency lighting must be provided in every corridor, stairway and other means of egress.

(iv) The entrances to all living units must be on a route accessible to the physically handicapped.

(2) Prospective tenants must be medically evaluated to determine their ability to sustain independence in a group home. Applicants should be guided by paragraph V B 1 b of exhibit J of subpart C of part 1930.

(3) A group may limit occupancy to a specific group of tenants. For example, a group home may limit occupancy to eligible elderly tenants, developmentally disabled people, or mentally impaired tenants. Refer to exhibit J of subpart C of part 1930 of this chapter for additional information.

(4) A group home may be associated with another organization, such as a workshop for the developmentally disabled. However, it must be a separate entity and able to function without being dependent on another organization.

(5) Applicants must show that adequate support services needed by the tenants will be available on a continual long range basis. Support services can be provided by the project or by a State or local public agency. A nonprofit organization with an estimated ongoing service program also may be deemed capable of providing support services.

(6) Food stamps must be accepted from tenants as part of their contribution for meals in accordance with 1944.224 (a)(5)(C) of this section.

(7) Tenants who need services to remain independent may meet the tenant eligibility requirements contained in paragraph VI B 1 i of exhibit B of subpart C of part 1930 by taking the services provided by the project.

(8) Instructions on how to determine the per unit rental rates for group homes are stipulated in exhibit J of subpart C of part 1930 of this chapter.

(c) *Market studies for congregate housing and group homes.* In addition to the requirements of exhibit A-7 of this subpart, the following are applicable to market studies for congregate housing and group homes:

(1) Market studies must address the need for housing with services. Local agencies on aging and other groups familiar with the elderly can be a valuable source of information on the needs and wants of elderly people in the market area. Applicants can conduct a mail-out survey to age and income

qualified elderly people if information is not available from other sources.

(2) An expanded market area may be considered only when the additional communities are part of the trade area and are so rural that they cannot support development of a congregate facility. If an expanded market area is proposed, the market study must establish conclusively that the community will be able to draw enough tenants to ensure feasibility of the project. The market study must clearly identify the expanded area and contain separate information on the additional communities. If used, mail-out surveys must clearly address the probability of respondents relocating to the proposed site.

(3) Market studies should include income information from the local social security office since many elderly people are dependent on social security and/or supplemental security income. This information will assist in determining if proposed tenants would have sufficient income to afford the services provided by the project.

(4) Demand for congregate housing generally is displayed by elderly people who are older than 70 years. Therefore, the market study must contain demographic information particular to those over the age of 62 and those over 70 years old. The study must also address the growth trends of people who are over 85 years old.

(5) Market studies must include information concerning alternative service providers as required in § 1944.224(a)(6) of this section.

(d) *Compliance with other laws.* Congregate housing and group homes must meet all applicable Federal, State and local laws, statutes, codes and/or ordinances pertaining to these types of housing and the services provided.

20. In Exhibit A-6, paragraph VIII is added to read as follows:

Exhibit A-6—Information to be Submitted with Preapplication for a Rural Rental Housing (RRH) Loan

* * * * *

VIII. For congregate housing proposals. Applicants must submit information on the services to be provided in accordance with exhibit E of this subpart.

21. Exhibit E of subpart E is added to read as follows:

Exhibit E of Subpart E—Support Services for Congregate Housing and Group Homes

I. Purpose

This exhibit prescribes support services for congregate housing and group homes.

II. General

The success of congregate housing and group homes will depend on the quality and affordability of the service component. Congregate housing applicants should explore the feasibility of providing services individually to ensure affordability by very low-income tenants. If feasible, fully independent tenants who do not require services to live independently should be given the option of choosing the services they want and can afford.

III. Existing Community Services and Requirements

Applicants should check local service agencies to determine what services are already available in the community. Services can often be provided more inexpensively through local service agencies or other groups which assist in providing services. In many communities there are established volunteer groups that may be willing to provide volunteer assistance to congregate housing tenants. Volunteer groups with a history of assisting elderly people may be able to supplement the delivery of services and help keep the costs affordable. Applicants should explore the availability of volunteers from the Retired Senior Volunteer Program (RSVP), local church groups and other community organizations. If volunteer groups are used, an alternative method of service delivery must be addressed in case the availability of volunteers ceases in the future. Applicants must also verify State and local licensing and certification requirements and include relevant information in the preapplication.

IV. Service Agreements

Applicant must submit a service agreement(s) for services that will not be provided by employees of the project. If services will be provided by employees of the project, the applicant must submit a separate budget for services and describe how tenants will be billed for services. Employees of congregate housing facilities who perform tasks for the management of the building and spend an appreciable amount of time in providing services to tenants should have their salaries prorated between the project's operation and maintenance budget and the services budget.

V. Services for Congregate Housing

The following services must be made available to tenants of congregate housing projects:

A. Meals. At least one nutritious meal a day, 7 days a week, must be provided in accordance with § 1944.224(a)(5)(i) of this subpart. The following information concerning the meal service must be included with the preapplication.

1. Who will provide the meals (i.e., meals offered by a local agency with tenant contribution; supplied or contracted for by owner with charge to tenant)?
2. If the service will be provided by employees of the project, a proposed breakdown of costs for the meal service. The breakdown should include the cost of food, personnel and utilities needed to prepare and serve the meals. Information concerning the proposed staffing should be included.

3. The cost to the tenant. Will tenants pay by the meal or be charged a rate for a specified time?

4. A statement concerning the frequency of meals, including the number of meals to be served per week.

5. Information concerning how the meals will be served (i.e., waiter style, buffet, tray service).

6. Any licensing requirement necessary for the service.

B. Transportation. Adequate transportation must be provided to shopping, medical and other services to meet the needs of the tenants. Applicants are encouraged to locate congregate housing facilities so that tenants can use public services. In many cases, service is available and the applicant can arrange for the project to be included in the schedule established by the provider. The following information concerning the transportation service must be included with the preapplication:

1. Who will provide the service (i.e., transportation provided by a local agency with tenant contribution; vehicle leased or purchased by applicant with charge to tenant)?

2. If the service will be provided by employees of the project, a proposed breakdown of costs for the transportation service. The applicant should address the following costs: vehicle purchase or lease payment; personnel to operate the vehicle; fuel; maintenance; and insurance.

3. The cost to the tenant. Will tenants pay for each trip or will they be charged a monthly rate?

4. A typical proposed schedule.

C. Housekeeping. Housekeeping services must be offered to assist congregate tenants with household tasks. The applicant must address the following concerning the housekeeping service:

1. Who will provide the service (i.e., housekeeping offered by a local agency with tenant contribution; supplied or contracted for by applicant with charge to tenant)?

2. If the service is provided by employees of the project, a proposed cost breakdown for the service which includes the cost of labor and supplies.

3. The type of tasks that will be offered (i.e., light housekeeping, laundry, shampooing carpeting). What is the planned frequency of the tasks?

4. The cost to the tenant.

D. Personal services. Personal services include such items as assistance with personal hygiene, nutrition counseling and general health screening (blood pressure checks, etc.). The following information concerning the personal services must be submitted with the preapplication:

1. Who will provide the service (i.e., personal services offered by a local agency with tenant contribution; volunteer health services; contracted for by applicant with charge to tenant)?

2. If the service is provided by employees of the project, a proposed cost breakdown for the service which includes the cost of labor and supplies.

3. The type of tasks that will be provided.

4. The cost to the tenant.

5. Any licensing requirement necessary for the services.

E. Recreational/social. Recreational and social activities must be offered to tenants to encourage interest in a variety of areas. The following areas could be considered: hobby and craft classes; dinners for holidays, birthdays, etc.; educational lectures; wellness and exercise programs; and a library. The applicant should encourage recreational/social activities which cause interaction between tenants, the project and the community. The following information concerning the recreational/social service must be included with the preapplication:

1. Who will provide the service (i.e., recreational/social activities offered by a local agency with tenant contribution; supplied or contracted for by applicant with charge to the tenant)?
2. If the service is provided by employees of the project, a proposed cost breakdown which includes the cost of labor and supplies.
3. The types and frequency of recreational/social activities that will be offered.
4. The cost to the tenant.

VI. Services for Group Homes

The following services must be made available to tenants of a group home:

A. Meals. At least three nutritious meals a day, 7 days a week, must be provided if tenants are not capable of preparing their meals. If meals are provided, the budget may include only the cost of food if tenants assist a staff person in preparing meals. Tenants in some group homes may be able to prepare meals on their own with supervision from a project personnel. In these cases, applicants must ensure that the tenants will be preparing nutritious meals.

B. Transportation. Applicants must submit information on the transportation service as detailed in paragraph V B of this Exhibit.

C. Housekeeping. Applicants must provide a narrative explaining how housekeeping will be accomplished. In many cases, group home tenants assist with housekeeping chores with little expense being borne by the project. Applicants should detail expenses that will be part of the service budget.

D. Personal services. A higher percentage of tenants in a group home may require personal services. Applicants must detail the services to be offered and the cost to tenants.

E. Recreational/social. In most cases, there will be little expense for recreational/social opportunities in a group home. Applicants should explain what will be offered to the tenants and the projected cost to tenants.

VII. Additional Items Necessary for Congregate Housing/Group Homes That Cannot be Financed with FmHA Loan Funds

Congregate housing/group home projects require additional items that will not become affixed to the real estate. These items can include special portable equipment, furnishings, kitchen bars, dining ware, eating utensils, movable tables and chairs, steamtables, etc. In accordance with § 1944.224(a)(3) of this subpart, loan funds cannot be used to finance these items. As a part of the preapplication, applicants must include a proposed list of additional items that will be needed by the project and state how these items will be paid for.

PART 1965—REAL PROPERTY

22. The authority citation for part 1965 continues to read as follows:

Authority: 42 U.S.C. 1480; 7 CFR 2.23; 7 CFR 2.70.

Subpart B—Security Servicing for Multiple Housing Loans

§ 1965.65 [Amended]

23. Section 1965.65 is amended by changing the reference in paragraph (c)(10) introductory text from "§ 1944.215(1)" to "§ 1944.215(k)".

Dated: April 16, 1990.

La Verne Ausman,

Administrator, Farmers Home Administration.

[FR Doc. 90-14779 Filed 6-28-90; 8:45 am]

BILLING CODE 3410-07-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 89-AEA-18]

Revocation of Control Zone; Fort Meade, MD

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This notice revokes the Control Zone established for the Tipton Army Air Field (AAF) located at Fort Meade, MD. Weather reporting at the Tipton AAF and the Fort Meade, MD Control Zone have been consistently unavailable since October 1, 1989 due to the closure of the part time Control Tower at the field on that date. The reporting of aviation weather at the field is a necessary requirement for the continued establishment of a Control Zone. Due to the consistent unavailability of the weather reporting services, the FAA finds it necessary to revoke the Fort Meade, MD Control Zone. This action returns that amount of controlled airspace back to the public which is not deemed necessary by the FAA for operations conducted under Instrument Flight Rules (IFR).

EFFECTIVE DATE: 0901 u.t.c. August 23, 1990.

FOR FURTHER INFORMATION CONTACT:

Mr. Curtis L. Brewington, Airspace Specialist, System Management Branch, AEA-530, Federal Aviation Administration, Fitzgerald Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone: (718) 917-0857.

SUPPLEMENTARY INFORMATION: History

On September 19, 1989, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revoke the Control Zone established at Fort Meade, MD due to the consistent unavailability of weather reporting at the Tipton AAF (54 FR 41458). The proposed action would return that amount of controlled airspace back to the public which was not deemed necessary by the FAA to contain aircraft operating under Instrument Flight Rules.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. One comment was received on the proposal.

The Department of the Army, Tipton Army Airfield Commander has stated that actions were being initiated to restore communications and weather reporting services at the Tipton AAF. It was suggested that further rulemaking proceedings be suspended pending the timely reestablishment of weather reporting at the field. Attempts to ascertain the establishment of weather reporting at the field were unsuccessful over a six (6) month period. The FAA, after careful review and consideration for the requirements of continued Control Zone establishment outlined in FAA Order 7400.2, finds no justification for the continued establishment of this Control Zone.

Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.171 of part 71 of the Federal Aviation Regulations was republished in FAA Handbook 7400.6F, January 2, 1990.

The Rule

This amendment to part 71 of the Federal Aviation Regulations revokes the Control Zone established at Fort Meade, MD due to the continuous unavailability of weather reporting at the Tipton AAF.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air

navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 71 of the Federal Aviation Regulations (14 CFR part 71) is amended as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.171 [Amended]

2. Section 71.171 is amended as follows:

Fort Meade, MD [Remove]

Remove the description of the Fort Meade, MD Control Zone in its entirety.

Issued in Jamaica, New York, on June 8, 1990.

Gary W. Tucker,
Manager, Air Traffic Division.

[FR Doc. 90-15175 Filed 6-28-90; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 89-AWP-20]

Alteration of VOR Federal Airway V-135; NV

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the description of VOR Federal Airway V-135 located in the vicinity of Tonopah, NV. The realignment of this airway will provide the necessary airspace needed to protect V-135 from Restricted Area R-4807, Tonopah, NV. This action will improve traffic flow in this area. This action is the result of an action to realign the lateral limits of R-4807.

EFFECTIVE DATE: 0901 u.t.c., August 23, 1990.

FOR FURTHER INFORMATION CONTACT: Alton D. Scott, Airspace and

Obstruction Evaluation Branch (ATP-240), Airspace—Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-9252.

SUPPLEMENTARY INFORMATION:

History

On February 16, 1990, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to alter the description of VOR Federal Airway V-135 located in the vicinity of Tonopah, NV (55 FR 5623). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.123 of part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6F dated January 2, 1990.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations alters VOR Federal Airway V-135 located in the vicinity of Tonopah, NV. The realignment of this airway will provide the airspace needed to protect V-135 from Restricted Area R-4807, Tonopah, NV. This action will improve traffic flow in this area and reduce controller workload.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, VOR federal airways.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 71 of the Federal Aviation Regulations (14 CFR part 71) is amended, as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.123 [Amended]

2. Section 71.123 is amended as follows:

V-135 [Amended]

By removing the words "INT Beatty 326" and Tonopah, NV, 196° radials;" and substituting the words "INT Beatty 326" and Tonopah, NV, 223° radials;"

Issued in Washington, DC, on June 22, 1990.

Harold W. Becker,
Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 90-15178 Filed 6-28-90; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 89-AEA-2]

Alteration of VOR Federal Airways; PA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the description of VOR Federal Airway V-12 located in the State of Pennsylvania. The increase in air traffic between Philadelphia and Reading, PA, has dictated the need to realign V-12. This action will increase air safety, reduce controller workload, and improve flight planning.

EFFECTIVE DATE: 0901 u.t.c. August 23, 1990.

FOR FURTHER INFORMATION CONTACT: Jesse B. Bogan, Jr., Airspace and Obstruction Evaluation Branch (ATP-240), Airspace—Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-9253.

SUPPLEMENTARY INFORMATION:

History

On May 10, 1989, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to alter the description of Federal Airway V-12

located in the State of Pennsylvania (54 FR 20146). The airway realignment enhances the flow of traffic between Philadelphia and Reading, PA. This action will increase air safety, reduce controller workload, and improve flight planning. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.123 of part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6F dated January 2, 1990.

The Rule

This amendment to part 71 of the Federal Aviation Regulations alters the description of VOR Federal Airway V-12 located in the State of Pennsylvania. The increase in air traffic between Philadelphia and Reading, PA, has dictated the need to realign V-12. This action will increase air safety, reduce controller workload, and improve flight planning.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, VOR federal airways.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR part 71) is amended, as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g)

(Revised Pub. L. 97-449, January 12, 1983; 14 CFR 11.69.)

§ 71.123 [Amended]

2. Section 71.123 is amended as follows:

V-12 [Amended]

By removing the words "INT Harrisburg 092° and East Texas, PA, 225° radials; to East Texas." and substituting the words "INT Harrisburg 092° and Pottstown, PA, 278° radials; to Pottstown."

Issued in Washington, DC, on June 22, 1990.

Harold W. Becker,

Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 90-15179 Filed 6-28-90; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Parts 71 and 73

[Airspace Docket No. 89-AWP-19]

Alteration of Restricted Area R-4807; Tonopah, NV

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action alters the boundaries and changes the using agency of Restricted Area R-4807, Tonopah, NV. Currently, the northwest portion of R-4807 does not provide sufficient maneuvering room for aircraft to utilize the westernmost targets on Ranges 71 and 76. The expansion provides for optimum utilization of the area. Part 71 is also amended to include R-4807 in the Continental Control Area. The expansion of R-4807 requires realignment of VOR Federal Airway V-135 which is being addressed under a separate action (Docket Number 89-AWP-20).

EFFECTIVE DATE: 0901 u.t.c., August 23, 1990.

FOR FURTHER INFORMATION CONTACT: Linda Ullom, Military Operations Program Office (ATM-420), Office of Air Traffic System Management, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-7683.

SUPPLEMENTARY INFORMATION:

History

On February 16, 1990, the FAA proposed to amend parts 71 and 73 of the Federal Aviation Regulations (14 CFR parts 71 and 73) to alter the boundaries and change the using agency of Restricted Area R-4807, Tonopah,

NV, and to include R-4807 in the Continental Control Area (55 FR 5625). Interested parties were invited to participate in the rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments on the proposal were received. Except for editorial changes, these amendments are the same as those proposed in the notice. Sections 71.151 and 73.48 of parts 71 and 73 of the Federal Aviation Regulations were republished in Handbook 7400.6F dated January 2, 1990.

The Rule

These amendments to parts 71 and 73 of the Federal Aviation Regulations expand Restricted Area R-4807, Tonopah, NV, by approximately 4.4 nautical miles at the northwest corner. Presently, the narrow east-to-west dimensions of the northwest corner severely limit the use of Range 71. The northern portion of Range 71 is not usable because the turn radius of aircraft operating at combat airspeeds does not permit such aircraft to remain within range airspace. Consequently, all tactical targets are located in Range 71S. This situation limits the ability of aircrews to employ realistic attack and defensive maneuvering and could seriously degrade their training mission. The Air Force considered the option of expanding airspace to the east by acquiring a portion of R-4809 which belongs to the Department of Energy (DOE). This was not practical due to DOE mission requirements in R-4809. The proposed expansion of the R-4807 airspace boundaries (to coincide with the present land boundaries) would allow for additional tactical targets and increase the overall capacity of the Tactical Fighter Weapons Center Range Complex. The total airspace expansion is limited to 55 square miles, all of which is over land owned by Nellis AFB or the Bureau of Land Management. Mitigating measures such as restricting overflight to a minimum of 2,000 feet above ground level in certain areas provide for environmental protection of indigenous wildlife. This action also amends part 71 to include R-4807 in the Continental Control Area, enabling joint use by nonparticipating aircraft when not required by the military. Implementation of this alteration requires realignment of that segment of VOR Federal Airway V-135 between Tonopah and Beatty to provide protected airspace between the airway and the restricted area. The V-135 realignment is being addressed under a separate action (Docket Number 89-AWP-20).

The FAA has determined that this regulation only involves an established

body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

In accordance with the National Environmental Policy Act and the regulations of the Council on Environmental Quality, the Air Force conducted an environmental review of military training activities associated with the revised restricted area. The Air Force prepared an environmental assessment (EA) in 1989. On the basis of that EA, a Finding of No Significant Impact (FONSI) was issued in May 1989. The FAA adopted the Air Force EA in September 1989. On the basis of the conclusions contained in the EA, the FAA finds that the airspace action adopted in this amendment will have no significant impact on the environment. A copy of the FAA FONSI issued September 29, 1989, has been placed in the public docket for this rulemaking. A copy of the EA is available from the Environmental Engineer, 554 CESS/DESPV, Nellis AFB, NV 89191-5000, or may be inspected during normal business hours in the FAA Office of Environment, AEE-1, Room 432, 800 Independence Avenue SW., Washington, DC 20591.

List of Subjects in 14 CFR Parts 71 and 73

Aviation safety, Restricted areas, and Continental control area.

Adoption of the Amendments

Accordingly, pursuant to the authority delegated to me, parts 71 and 73 of the Federal Aviation Regulations (14 CFR parts 71 and 73) are amended, as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.151 [Amended]

2. Section 71.151 is amended as follows:

R-4807 Tonopah, NV [New]

PART 73—SPECIAL USE AIRSPACE

3. The authority citation for part 73 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510, 1522; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 73.48 [Amended]

4. Section 73.48 is amended as follows:

R-4807 Tonopah, NV [Amended]

By removing the present boundaries and using agency and substituting the following:

Boundaries. Beginning at lat. 36°51'00" N., long. 116°33'30" W.; to lat. 37°26'30" N., long. 117°04'30" W.; to lat. 37°33'00" N., long. 117°05'38" W.; to lat. 37°53'00" N., long. 117°05'38" W.; to lat. 37°53'00" N., long. 116°55'00" W.; to lat. 37°47'00" N., long. 116°55'00" W.; to lat. 37°33'00" N., long. 116°43'00" W.; to lat. 37°33'00" N., long. 116°26'00" W.; to lat. 37°53'00" N., long. 116°26'00" W.; to lat. 37°53'00" N., long. 116°11'00" W.; to lat. 37°42'00" N., long. 116°11'00" W.; to lat. 37°42'00" N., long. 115°53'00" W.; to lat. 37°33'00" N., long. 115°53'00" W.; to lat. 37°33'00" N., long. 115°48'00" W.; to lat. 37°28'00" N., long. 115°48'00" W.; to lat. 37°28'00" N., long. 116°00'00" W.; to lat. 37°16'00" N., long. 116°00'00" W.; to lat. 37°16'00" N., long. 116°34'00" W.; to the point of beginning.

Using agency. U.S. Air Force, Commander, Tactical Fighter Weapons Center, Nellis AFB, NV.

Issued in Washington, DC, on June 22, 1990.

Harold W. Becker,

Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 90-15177 Filed 6-28-90; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 75

[Airspace Docket No. 90-ASO-2]

Alteration of Jet Route, Florida

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the description of Jet Route J-103 by

revoking a segment of that route located between St. Petersburg, FL, and Ormond Beach, FL. The FAA made a determination that the route segment between St. Petersburg, FL, and Ormond Beach, FL, crosses routes of the predominantly north/south flow of traffic in that area. This action increases safety and reduced chart clutter.

EFFECTIVE DATE: 0901 u.t.c., August 23, 1990.

FOR FURTHER INFORMATION CONTACT:

Lewis W. Still, Airspace and Obstruction Evaluation Branch (ATP-240), Airspace—Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-9250.

SUPPLEMENTARY INFORMATION:

History

On March 30, 1990, the FAA proposed to amend part 75 of the Federal Aviation Regulations (14 CFR part 75) to alter the description of Jet Route J-103 by revoking a segment of that route located between St. Petersburg, FL, and Ormond Beach, FL (55 FR 11958). The FAA made a determination that the route segment between St. Petersburg, FL, and Ormond Beach, FL, crosses routes of the predominantly north/south flow of traffic in that area. This action increases safety and reduces chart clutter. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 75.100 of part 75 of the Federal Aviation Regulations was republished in Handbook 7400.6F dated January 2, 1990.

The Rule

This amendment to part 75 of the Federal Aviation Regulations alters the description of Jet Route J-103 by revoking the route segment between St. Petersburg, FL, and Ormond Beach, FL. High altitude operations in Central Florida flow north and south. This action reduces chart clutter by removing a jet route that is not being utilized and increases flight safety by eliminating some jet route intersections.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major

rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 75

Aviation safety, Jet routes.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 75 of the Federal Aviation Regulations (14 CFR part 75) is amended, as follows:

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

1. The authority citation for part 75 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 75.100 [Amended]

2. Section 75.100 is amended as follows:

J-103 [Revised]

From Ormond Beach, FL, to Savannah, GA. Issued in Washington, DC, on June 22, 1990.

Harold W. Becker,

Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 90-15176 Filed 6-28-90; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Parts 771, 774, 779, 786, 787, and 799

[Docket No. 900672-0172]

Establishment of General License GDR; Exports to the German Democratic Republic

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Interim rule with request for comments.

SUMMARY: The Bureau of Export Administration is amending the Export Administration Regulations (EAR) (15 CFR Parts 730-799) to reduce licensing requirements on trade with the German Democratic Republic. This action is

taken following agreement reached in COCOM in response to steps taken by the Federal Republic of Germany and the German Democratic Republic toward unification. This rule creates a new General License designated GDR. General License GDR is designed to allow a significant number of items listed on the Commodity Control List (CCL) (15 CFR 799.1, supplement No. 1) under Export Control Commodity Numbers ending in the code letter "A" ("A" level commodities), as well as certain technical data and software, to be exported to the German Democratic Republic without a validated license.

Certain special requirements will apply to shipments of these "A" level commodities, technical data, and software to the German Democratic Republic. This rule also deletes a restriction on ECCN 1091A under General License GCT.

Items not eligible for export under General License GDR continue to require a validated license.

DATES: Effective: This rule is effective July 1, 1990. **Comments:** Comments should be received by August 15, 1990.

ADDRESSES: Written comments (six copies) should be sent to: Patricia Muldonian, Office of Technology and Policy Analysis, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Patricia Muldonian, Regulations Branch, Office of Technology and Policy Analysis, Bureau of Export Administration, telephone: (202) 377-2440.

SUPPLEMENTARY INFORMATION:

Background Information

The members of COCOM have agreed to treat the German Democratic Republic differently from other proscribed destinations because the German Democratic Republic has agreed to unite with the Federal German Republic. The German Democratic Republic is currently undertaking measures to adopt licensing procedures to effectively control strategic trade. These procedures include full licensing of COCOM controlled items, both indigenous and imported for export or reexport and implementation of a German Democratic Republic End-Use Certificate in all cases of imports of controlled commodities.

To carry out this COCOM agreement and facilitate the transition to unification, the Bureau of Export Administration is reducing export controls to the German Democratic

Republic by establishing a new General License GDR.

The Bureau of Export Administration (BXA) is amending the Export Administration Regulations (EAR) by revising the validated license requirements for shipments of multilaterally controlled ("A" level) items to the German Democratic Republic. These changes are based on a review of multilateral export controls maintained by the U.S. and certain allied countries through the Coordinated Committee on Multilateral Export Controls (COCOM). General License GDR provides benefits, for exports of "A" level items to the German Democratic Republic, that are similar to certain benefits currently available for exports to COCOM destinations under General License GCT.

The changes represent a significant reduction in the number of validated licenses that will be required for exports to the GDR. This will reduce the paperwork burden on exporters, because a much smaller number of license applications will have to be filed for exports to the German Democratic Republic. Based upon recent export licensing statistics, BXA estimates that approximately 80 percent (in terms of dollar value) of times presently requiring a validated license to be exported to the German Democratic Republic, will no longer require a validated license.

The commodities eligible for export under General License GDR are all "A" level commodities that are not specifically excluded by the "Commodities Not Eligible for General Licenses GCT or GDR" Paragraph or by the "Commodities Not Eligible for General License GDR" paragraph located in certain ECCNs. In addition, software described in supplement No. 3 to part 779, and technical data that is not listed in § 779.4(c) or (d), are eligible for General License GDR.

Use of General License GDR for exports of eligible "A" level commodities and software to the German Democratic Republic is subject to the following special requirements:

(1) Prior to shipment, each exporter will be required to obtain an End-Use Certificate issued by the German Democratic Republic that certifies that the importer will comply with all government restrictions on the shipment of these "A" level commodities;

(2) Exporters will be required to submit the GDR End-Use Certificate issued by the German Democratic Republic to the Office of Export Licensing (OEL) promptly, but in no case later than 60 days after date of export;

(3) Consistent with the record retention and inspection requirements of § 787.13 of the EAR, all exporters and importers will be required to maintain records of all transactions involving such exports of eligible "A" level commodities. Such records are subject to U.S. Government inspection; and

(4) Prior U.S. authorization will be required to redirect these "A" level commodities and software to any country of destination while enroute to the German Democratic Republic.

Although most "A" level commodities will be eligible for export to the German Democratic Republic under General License GDR, a few commodities will continue to require validated licenses and appropriate supporting documentation. Exporters will need to check the *Commodities Not Eligible for General Licenses GCT and GDR* and the *Commodities Not Eligible for General License GDR* paragraphs of the applicable Export Control Commodity Number to determine whether a validated license is required for export to the German Democratic Republic.

Exports of "B" level commodities are not affected by this rule and will continue to require a validated license and any applicable supporting documentation.

Reexports to and among COCOM participating countries under § 774.2(k) will not be affected by the creation of General License GDR. Reexports from COCOM countries to the German Democratic Republic is authorized as a permissive reexport if the shipment would be eligible for General License GDR if exported from the United States. Foreign consignees in non-COCOM countries continue to be responsible for obtaining prior U.S. government reexport authorization, as well as complying with their own country's export controls. (See EAR part 774.)

Notwithstanding § 787.4, equipment already in the GDR may be repaired or upgraded, regardless of the circumstances surrounding the original export, provided that both the equipment in the GDR and the goods being exported are eligible for General License GDR and the equipment if upgraded would continue to be eligible for General License GDR.

General License GDR also will allow exports of software described in supplement No. 3 to part 779. Exports of technical data will be allowed under General License GTDR unless the technical data is identified in § 779.4 (c) or (d) or a validated license is required by an entry on the CCL, provided a written assurance is obtained as provided in § 779.4(f). In determining the need for approval of "release" of

technical data, exporters should treat East German persons outside the GDR the same as they would treat West German persons.

Rulemaking Requirements

1. This rule is consistent with Executive orders 12291 and 12661.

2. This rule does not contain a collection of information subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). However, a reduction in the validated license requirements will result because of this rule, reducing the paperwork burden on the public. Affected OMB controlled collections include 0694-0005, 0694-0007, and 0694-0010.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553), or by any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

5. Section 13(a) of the Export Administration Act of 1979 (EAA), as amended (50 U.S.C. app. 2412(a)), exempts this rule from all requirements of section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553), including those requiring publication of a notice of proposed rulemaking, an opportunity for public comment, and a delay in effective date. This rule is also exempt from these APA requirements because it involves a foreign and military affairs function of the United States. Section 13(b) of the EAA does not require that this rule be issued in proposed form because this rule does not impose a new control. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

However, because of the importance of the issues raised by these regulations, this rule is issued in interim form and comments will be considered in the development of final regulations. Accordingly, the Department encourages interested persons who wish to comment to do so at the earliest possible time to permit the fullest consideration of their views.

The period for submission of comments will close August 15, 1990. The Department will consider all

comments received before the close of the comment period in developing final regulations. Comments received after the end of the comment period will be considered if possible, but their consideration cannot be assured. The Department will not accept public comments accompanied by a request that part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such comments and will not consider them in the development of final regulations. All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, the Department requires comments in written form. Oral comments must be followed by written memoranda, which will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

In addition to comments on the effects of this rule, BXA would appreciate any comments that would help quantify the extent of the anticipated reduction in licensing burden.

The public record concerning these regulations will be maintained in the Bureau of Export Administration Freedom of Information Records Inspection Facility, room 4525, Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington DC 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in part 4 of title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Margaret Cornejo, Bureau of Export Administration Freedom of Information Officer, at the above address or by calling (202) 377-2593.

List of Subjects

15 CFR Parts 771, 774, 786, and 799

Exports, Reporting and Recordkeeping Requirements.

15 CFR Part 779

Computer technology, Reporting and recordkeeping requirements, Science and technology.

15 CFR Part 787

Boycotts, Exports, Law enforcement, Penalties, Reporting and recordkeeping requirements.

Accordingly, parts 771, 774, 779, 786, 787, and 799 of the Export Administration Regulations (15 CFR parts 730-799) are amended as follows:

1. The authority citations for parts 771, 779, 786, 787, and 799 continue to read as follows:

Authority: Pub. L. 96-72, 93 Stat. 503 (50 U.S.C. app. 2401 *et seq.*), as amended by Pub. L. 97-145 of December 29, 1981, by Pub. L. 99-64 of July 12, 1985 and by Pub. L. 100-418 of August 23, 1988; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985); Pub. L. 95-223 of December 28, 1977 (50 U.S.C. 1701 *et seq.*); E.O. 12532 of September 9, 1985 (50 FR 36861, September 10, 1985) as affected by notice of September 4, 1986 (51 FR 31925, September 8, 1986); Pub. L. 99-440 of October 2, 1986 (22 U.S.C. 5001 *et seq.*); and E.O. 12571 of October 27, 1986 (51 FR 39505, October 29, 1986).

2. The authority citation for part 774 continues to read as follows:

Authority: Pub. L. 96-72, 93 Stat. 503 (50 U.S.C. app. 2401 *et seq.*), as amended by Pub. L. 97-145 of December 29, 1981, by Pub. L. 99-64 of July 12, 1985 and by Pub. L. 100-418 of August 23, 1988; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985).

PART 771—AMENDED

3. Part 771 is amended by adding a new § 771.26 to read as follows:

§ 771.26 General License GDR; Exports to the German Democratic Republic.

(a) *Scope.* A general license designated GDR is established, authorizing exports to the German Democratic Republic of all "A" level commodities except those specifically excluded by the "Commodities Not Eligible for General Licenses GCT or GDR" paragraph or by the "Commodities Not Eligible for General License GDR" paragraph set forth in certain Export Control Commodity Numbers (ECCNs) on the Commodity Control List. This general license authorizes exports of software described in supplement No. 3 to part 779 of this subchapter (see the note in § 779.4(f) of this subchapter for exports of technical data to the German Democratic Republic). Exports may be made under General License GDR only when intended for use or consumption within the German Democratic Republic, reexport among and consumption within COCOM member countries, or reexport in accordance with other provisions of the Export Administration Regulations.

(b) *Eligible exports.* The commodities eligible for export under this General License GDR are all "A" level

commodities that are not specifically excluded by the "Commodities Not Eligible for General Licenses GCT or GDR" paragraph or by the "Commodities Not Eligible for General License GDR" paragraph set forth in certain ECCNs. Exports intended to upgrade equipment in the German Democratic Republic are eligible unless the export would make the upgraded equipment ineligible for General License GDR. Notwithstanding § 787.4 of this subchapter, equipment already in the GDR may be repaired or upgraded, regardless of the circumstances surrounding the original export, provided that both the equipment in the GDR and the goods being exported are eligible for General License GDR and the equipment if upgraded would continue to be eligible for General License GDR. Eligible software is described in supplement No. 3 to part 779 of this subchapter. All shipments under this General License GDR are subject to the prohibitions contained in § 771.2(c).

(c) *Special documentation requirement for the German Democratic Republic.* Prior to shipping any eligible "A" level commodity or software under General License GDR, the exporter must obtain an original GDR End-Use Certificate issued to the GDR importer by the Office of Import and Export Controls, Ministry of Economics, 44266 Unter den Linden, East Berlin, GDR. In the case of software, this certificate replaces the written assurance required by § 779.4(f)(1)(i)(A) of this subchapter. The exporter shall submit the GDR End-Use Certificate to the Office of Export Licensing (OEL), P.O. Box 273, Washington, DC 20230, no later than 60 days following shipment.

(d) *Restrictions on commodities re-directed enroute.* Commodities or software exported under the provisions of this § 771.26 may not be re-directed enroute to a new country of destination without prior authorization from the Office of Export Licensing, U.S. Department of Commerce, except to a country eligible to receive the shipment under General License GCT.

(e) *Destination Control Statement.* In accordance with § 786.6 of this subchapter, the exporter is required to enter an appropriate Destination Control Statement on all commercial documents (e.g., the bill of lading, the airway bill, and the commercial invoice) covering an export from the United States under General License GDR. In using the destination control statements listed in § 786.6(d) of this subchapter, Statements No. 1 and 2 shall be completed to show the "German Democratic Republic" as the country of ultimate destination, and

Statement No. 2 may be completed to show distribution or resale in "COCOM countries" or the "German Democratic Republic."

(f) *Recordkeeping requirements.* Records of transactions involving exports under General License GDR must be maintained in accordance with the recordkeeping requirements of § 787.13 of this subchapter.

PART 774—[AMENDED]

4. Section 774.2 is amended by adding a new paragraph (l) to read as follows:

§ 774.2 Permissive reexports.

(l) Reexports from a COCOM participating country to the German Democratic Republic of commodities or software that may be exported directly from the United States to the German Democratic Republic under General License GDR (see § 771.26 of this subchapter).

PART 786—[AMENDED]

5. Section 786.6 is amended by revising paragraph (a)(1)(ii) and by revising paragraph (c)(2) to read as follows:

§ 786.6 Destination control statements.

(a) * * *

(1) * * *

(ii) General License GLV, GTF-US, GTE, GLR, GFW, G-COM, G-COCOM, GCT, GDR, or G-CEU.

* * * * *

(c) * * *

(2) *General license shipments.* For a shipment under any general license, except General Licenses G-COCOM, GCT, and GDR, any of the three destination control statements in paragraph (d) of this section may be used. For shipments under General Licenses G-COCOM, GCT, or GDR exporters must use Statement No. 1 or 2.

* * * * *

PART 787—[AMENDED]

6. Section 787.13(c) is amended in the second sentence by adding the reference "771.26," immediately following the reference "771.25,".

PART 779—[AMENDED]

7. Section 779.4(f) is amended by adding introductory text immediately following the heading to read as follows:

§ 779.4 General license GTDR: Technical data under restriction.

* * * * *

(f) *Written assurance requirements.* Effective July 1, 1990, technical data eligible for General License GTDR may be shipped under that general license to the German Democratic Republic (GDR), provided a written assurance described herein is obtained. Notwithstanding the GDR's status as a Group Y country, the GDR need not be listed in future written assurances, and assurances previously given regarding the GDR may be disregarded, unless the technical data is related to a product that is excluded from eligibility for General License GDR (§ 771.23 of this subchapter).

PART 799—[AMENDED]

Supplement No. 1 to § 799.1 [Amended]

8. In supplement No. 1 to § 799.1 (the Commodity Control List), the entries listed below are amended by revising the phrase "GCT" to read "General Licenses GCT or GDR" in the heading of the *Commodities Not Eligible for GCT* paragraph for each entry:

A. In Commodity Group 0, Metal-Working Machinery: ECCN 2018A;
B. In Commodity Group 1, Chemical and Petroleum Equipment: ECCN 2118A;

C. In Commodity Group 3, General Industrial Equipment: ECCNs 1302A, 3336A, 1355A, 1357A, 1361A, 1362A, 1358A, and 1388A;

D. In Commodity Group 4, Transportation Equipment: ECCNs 1417A, 1418A, 1460A, and 1485A;

E. In Commodity Group 5, Electronics and Precision Instruments: ECCNs 1501A, 1510A, 1516A, 1517A, 1518A, 1522A, 1527A, 1529A, 1531A, 1533A, 1553A, 1564A, 1565A, 1568A, 1585A, 1587A, and 1595A;

F. In Commodity Group 6, Metals, Minerals, and Their Manufacturers: ECCNs 3604A and 3609A; and

G. In Commodity Group 7, Chemicals, Metalloids, Petroleum Products and Related Materials: ECCNs 1715A, 1746A, and 1783A.

Supplement No. 1 to § 799.1 [Amended]

9. In supplement No. 1 to § 799.1 (the Commodity Control List), Group 0, (Metal-Working Machinery) the entry for ECCN 1091A is amended by removing the "Commodities Not Eligible for GCT" paragraph.

Supplement No. 1 to § 799.1 [Amended]

10. In supplement No. 1 to § 799.1 (the Commodity Control List), in the entries listed below, add a new paragraph immediately following the *GLV \$ Value Limit* paragraph of each entry to read as follows:

"Commodities Not Eligible for General License GDR: Entire entry."

A. In Commodity Group 1, Chemical and Petroleum Equipment: ECCNs 2120A and 3131A;

B. In Commodity Group 2, Electrical and Power-Generating Equipment: ECCN 3261A;

C. In Commodity Group 3, General Industrial Equipment: ECCNs 2317A, 2319A, 3362A, and 3363A;

D. In Commodity Group 4, Transportation Equipment: ECCNs 2406A, 2409A, 2410A, 2414A, 2418A, and 2460A;

E. In Commodity Group 6, Metals, Minerals, and Their Manufacturers: ECCNs 2603A, 3605A, 3607A, 3608A, and 2616A;

F. In Commodity Group 7, Chemicals, Metalloids, Petroleum Products and Related Materials: ECCNs 2708A, 3709A, and 3711A; and

G. In Commodity Group 9, Miscellaneous: ECCNs 2901A and 2913A.

Dated: June 25, 1990.

James M. LeMunyon,
Deputy Assistant Secretary for Export Administration.

[FR Doc. 90-15083 Filed 6-29-90; 8:45 am]

BILLING CODE 3510-DT-M

15 CFR Parts 776, 778, 779, and 799

[Docket No. 90067-0171]

Revisions to the Commodity Control List Based on COCOM Review

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of Export Administration maintains the Commodity Control List (CCL), which identifies those items subject to Department of Commerce export controls. This final rule amends a number of Export Control Commodity Numbers (ECCNs) on the CCL. These revisions are the result of negotiations at a high level meeting of the Coordinating Committee for Multilateral Export Controls (COCOM). Such multilateral controls restrict the availability of strategic items to controlled countries. The meeting endorsed substantial reductions in national security export controls.

This rule amends 15 CFR parts, 776, 778, 779 and 799. In the CCL, it removes ECCNs 1075A, 1093A, 1129A, 1203A, 1206A, 1305A, 1354A, 1356A, 1359A, 1360A, 1365A, 1372A, 1425A, 1514A, 1521A, 1532A, 1544A, 1545A, 1547A, 1588A, 1635A, 1734A, 1749A, and 1760A.

ECCNs 1302A, 1518A, 1541A, 1542A, 1559A, and 1584A, are renumbered and retained for nuclear nonproliferation or missile technology reasons. Portions of ECCNs 1570A and 1587A are renumbered and retained for these same reasons, with the balance of the entries deleted. Substantial decontrols have been effected for computers in ECCN 1565A, for machine tools in ECCNs 1091A, 1312A, 1370A, 1391A, and for telecommunications items in ECCNs 1353A, 1516A, 1519A, 1520A, 1527A, 1531A, 1567A. Finally, ECCNs 1358A, 1529A, 1568A, and 1763A, and some items from ECCNs 1391A, 1555A, and 1585A, are decontrolled to the China "green line" level. The net effect of this rule will be a substantial reduction in the number of export license applications that will have to be filed.

EFFECTIVE DATE: This rule is effective July 1, 1990.

FOR FURTHER INFORMATION CONTACT:

For questions of a technical nature on machine tools and industrial equipment, call Surendra Dhir, Office of Technology and Policy Analysis, Bureau of Export Administration, telephone: (202) 377-5695.

For questions of a technical nature on test instruments or semiconductor manufacturing equipment, call Robert Anstead, Office of Technology and Policy Analysis, Bureau of Export Administration, telephone: (202) 377-1641.

For questions of a technical nature on telecommunications equipment, call Joseph Westlake, Office of Technology and Policy Analysis, Bureau of Export Administration, telephone: (202) 377-0730.

For questions of a technical nature on chemicals, metalloids, petroleum products and related materials, call Jeff Tripp, Office of Technology and Policy Analysis, Bureau of Export Administration, telephone: (202) 377-1309.

For questions of a technical nature on computer systems or software, call Randy Williams, Office of Technology and Policy Analysis, Bureau of Export Administration, telephone: (202) 377-0708.

SUPPLEMENTARY INFORMATION:

Background

On May 2, 1990, the White House announced that President Bush had concluded that the COCOM control lists should be completely overhauled. While aiming at development of a new "core list" by the end of the year, the President determined to recommend significant immediate revisions. These

proposals have been discussed in COCOM and have resulted in substantial changes that were endorsed by a high level COCOM meeting on June 6 and 7. These interim changes are effective July 1, 1990.

Thirty national security controlled entries are being deleted entirely from the COCOM list. All or part of eight of these entries will be retained on the CCL in some form—three for missile technology concerns (ECCNs 1302A, 1518A, and 1587A) and the other five (ECCNs 1541A, 1542A, 1559A, 1570A, and 1584A), for countries of particular concern, for nuclear non-proliferation reasons. A new Supplement No. 4 to Part 778 lists the countries that will be affected by these nuclear controls. In addition, portions of certain other entries are also retained for missile technology (ECCNs 1529A, 1531A, and 1568A) or nuclear non-proliferation reasons (ECCNs 1091A and 1312A), even though removed from national security control.

Four entries, and certain items included in three others, are decontrolled to the China "green line" level. Additional decontrols will be made in several entries, following further COCOM discussions and drafting of decontrol language. Such changes will be announced as soon as they are available.

Computer controls are being liberalized in a number of ways. Computers up to a Processing Data Rate (PDR) of 275 million bits per second are decontrolled. Advisory Note 9 is revised to permit approval of licenses, without referral to the Department of Defense or COCOM, for computers up to a PDR of 550 mbps. General License GFW will be available at the same level. Computers with PDRs between 550 mbps and 1000 mbps will be given favorable consideration to controlled countries under Advisory Note 12.

This rule changes the special visitation requirements for computers. Parties who have exported computers previously need not continue to adhere to visitation requirements, unless visitation would be required by Advisory Note 12 to ECCN 1565A, as amended by this rule.

Changes in machine tool controls are designed to permit export of all but the most precise and militarily critical equipment. Approximately 75 percent of the advanced machine tools produced in the United States can now be exported without a license, compared with only 10 percent under the previous controls. Positioning accuracies of plus or minus 2, 3, or 4 microns will be allowed, depending on the type of machine tool. Previously, only positioning accuracies

of plus or minus 10 microns were allowed. Computer Numerical Controls based on 32 bit microprocessors will be permitted.

For telecommunications, decontrols include mobile radio and analog cellular communications equipment, civil satellite ground stations, and full featured small digital PABX's. Larger digital switches and packet switching data communications systems may be approved without referral to the Department of Defense or COCOM. Favorable consideration may be given to exports to controlled countries of production facilities for telephone switches.

In October 1988, BXA published a proposed rule designed to clarify and simplify technical data controls. The present rule follows the October 1988 proposed rule by including in certain ECCNs specific provisions dealing with technical data and software. This begins, on a small scale, the transition to including descriptions of technical data and software subject to controls on the CCL instead of separately in part 779. This process will, when completed, enable us to adhere more closely to the treatment of technical data and software on the COCOM lists.

That proposal was based on a revision of each entry on the CCL to incorporate specific controls on technical data and software. That task has proven to be much more complex and time consuming than had been anticipated, and BXA has been unable to devote the resources necessary for completion. To avoid further delay in publishing the revised technical data regulations, this rule makes changes in the way exporters determine licensing requirements.

Until all technical data and software licensing requirements are reflected in the CCL, exporters will be required to determine first whether their technical data or software is within a CCL entry that both encompasses the technical data or software and specifically provides for licensing requirements in a paragraph headed "Technical Data and Software." If the licensing requirements are described in a "Technical Data and Software" paragraph, then any conflict between the provisions of part 779 and the CCL are resolved in favor of the CCL. If the licensing requirements are not described in a CCL entry, then the provisions of part 779 prevail. An exception to this guidance is the software described in ECCNs 1355, 1388, and 1527, which remains subject to the validated license controls imposed on those entries even though no "Technical Data and Software" paragraph appears in those entries.

This duty to determine whether technical data or software is identified on the CCL will enable BXA to proceed with publication of the new technical data regulations while integrating technical data and software into the CCL in stages.

Notwithstanding § 787.4, equipment already in Country Groups Q, W, or Y that is removed from national security control by this rule may be repaired or upgraded, regardless of the circumstances surrounding the original export, provided that necessary approvals are obtained for the repair parts or upgrade, and that the equipment if upgraded would not become subject to national security control.

This rule revises Supplement No. 3 to Part 779 to clarify the extent to which standard commercial software may be shipped to Country Groups TVQWY without a written assurance under General License GTDR, and also provides a description of software that is "standard commercially available."

Rulemaking Requirements

1. This rule complies with Executive Order 12291 and Executive Order 12661.
2. This rule involves collections of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These collections have been approved by the Office of Management and Budget under Control Numbers 0694-0005, 0694-0007, 0694-0010, 0694-0013, 0694-0021, 0694-0023, and 0694-0049. Licensing requirements will be reduced as a result of this rule, thereby reducing the paperwork burden on the public.
3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.
4. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553), or by any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.
5. Section 13(a) of the Export Administration Act of 1979, as amended (EAA) (50 U.S.C. app. 2412(a)), exempts this rule from all requirements of section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553), including those requiring publication of a notice of proposed rulemaking, an opportunity for public comment, and a delay in effective date. This rule is also exempt from these

APA requirements because it involves a foreign and military affairs function of the United States. Section 13(b) of the EAA does not require that this rule be published in proposed form because this rule does not impose a new control. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis. Comments should be submitted to Willard Fisher, Office of Technology and Policy Analysis, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

Since negotiations on multilateral export controls will continue, with the specific goal of establishing an entirely new "core list," comments on the general extent of controls are also particularly welcome. To meet multinational deadlines, comments on the "core list" concept must be received by July 20, 1990.

List of Subjects

15 CFR Parts 776 and 799

Exports, Reporting and recordkeeping requirements.

15 CFR Part 778

Exports, Nuclear energy, Reporting and recordkeeping requirements.

15 CFR Part 779

Computer technology, Exports, Reporting and recordkeeping requirements, Science and technology.

Accordingly, parts 776, 778, 779 and 799 of the Export Administration Regulations (15 CFR parts 730-799) are amended as follows:

1. The authority citation for 15 CFR parts 776 and 778 continues to read as follows:

Authority: Pub. L. 96-72, 93 Stat. 503 (50 U.S.C. app. 2401 *et seq.*), as amended by Pub. L. 97-145 of December 29, 1981, by Pub. L. 99-64 of July 12, 1985, and by Pub. L. 100-418 of August 23, 1988; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985).

PART 776—[AMENDED]

2. Section 776.18 is amended by revising the introductory text to read as follows:

§ 776.18 Equipment and related technical data used in the development of missiles capable of delivering nuclear weapons.

In support of U.S. foreign policy to limit the proliferation of missiles that are capable of delivering nuclear

weapons, an individual validated license is required to export certain equipment and technical data related to the development and production of such nuclear-capable missiles to Country Groups QSTVWYZ. The specific commodities appear within ECCNs 2018A, 2118A, 4118B, 4302B, 1357A, 1361A, 1362A, 1385A, 1460A, 1485A, 1501A, 1516A, 1517A, 4518B, 1522A, 1529A, 4529B, 1531A, 4531B, 1533A, 1564A, 1565A, 1568A, 4568B, 4587B, 1595A, 1715A, and 1746A.

PART 778—[AMENDED]

3. Part 778 is amended by adding and reserving a Supplement No. 3 and by adding a new Supplement No. 4 to read as follows:

Supplement No. 3—[Reserved]

Supplement No. 4—Nuclear Non-Proliferation—Special Country List

Afghanistan
Albania
Algeria
Andorra
Angola
Argentina
Bahrain
Brazil
Burma
Chile
Comoros
Djibouti
Guyana
India
Iran
Iraq
Israel
Kuwait
Libya
Malawi
Mauritania
Mozambique
Niger
Oman
Pakistan
Qatar
Saudi Arabia
South Africa
St. Kitts
Syria
Tanzania
United Arab Emirates
Vanuatu
Yemen Arab Republic
Zambia
Zimbabwe

4. The authority citation for 15 CFR parts 778 and 799 continues to read as follows:

Authority: Pub. L. 96-72, 93 Stat. 503 (50 U.S.C. app. 2401 *et seq.*), as amended by Pub. L. 96-145 of December 29, 1981, by Pub. L. 99-64 of July 12, 1985, and by Pub. L. 100-418 of August 23, 1988; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985); Pub. L. 95-223 of December 28, 1977 (50 U.S.C. 1701 *et seq.*); E.O. 12532 of September 9, 1985 (50 FR 36861,

September 10, 1985) as affected by notice of September 4, 1986 (51 FR 31925, September 8, 1986); Pub. L. 99-440 of October 2, 1986 (22 U.S.C. 5601 *et seq.*); and E.O. 12571 of October 27, 1986 (51 FR 39505, October 29, 1986).

PART 779—[AMENDED]

§ 799.4 [Amended]

5. Section 799.4 is amended:
 - a. By revising in paragraph (d)(11) the phrase "ECCNs 1203A, 4203B, 1312A" to read "ECCN 1312A";
 - b. By removing paragraph (d)(23);
 - c. By redesignating paragraphs (d)(24) through (d)(26) as paragraphs (d)(23) through (d)(25), respectively; and
 - d. By revising in paragraph (f)(1)(i)(Q) the phrase "2.1 megabits per second" to read "8.5 megabits per second".

§ 799.8 [Amended]

6. Section 799.8 is amended by revising in paragraph (b)(3)(i)(C) the phrase "CCL entries 1548, 1555, 1559, and 1781" to read "CCL entries 1548A, 1555A, and 1781A".

Supplement No. 3 to Part 779 [Amended]

7. Supplement No. 3 to part 779 (Computer Software) is amended:
 - a. By revising in paragraph (a)(1)(i) under the heading List of Software the phrase "calculation on invoice control" to read "calculation or invoice control";
 - b. By revising in paragraph (a)(1)(ii) the phrase "work processing" to read "word processing";
 - c. By revising paragraph (a)(3)(ii) and the Note immediately following paragraph (a)(3)(ii);
 - d. By adding a new paragraph (a)(6);
 - e. By revising paragraph (b)(4)(i);
 - f. By revising in paragraph (b)(5)(i) the word "applications" to read "applications";
 - g. By revising in paragraph (b)(5)(iv) the phrase "machines" to read "digital computers";
 - h. By adding a new paragraph (b)(5)(v) and a new Note following paragraph (b)(5)(v);
 - i. By revising in paragraph (d)(2) the phrase "ECCN 1075A" to read "ECCN 5075F";
 - j. By removing paragraphs (d)(6) through (d)(8) and redesignating paragraph (d)(9) as new paragraph (d)(6);
 - k. By removing paragraphs (d)(10) and redesignating paragraph (d)(11) as new paragraph (d)(7);
 - l. By redesignating paragraph (d)(12) as new paragraph (d)(8) and removing the phrase "ECCN 1588A and";
 - m. By redesignating paragraphs (d)(13) and (d)(14) as new paragraphs (d)(9) and (d)(10), respectively;

n. By removing paragraphs (d)(15) and redesignating paragraph (d)(16) as new paragraph (d)(11);

o. By removing paragraphs (d)(17) and redesignating paragraphs (d)(18) through (d)(21) as new paragraphs (d)(12) through (d)(15), respectively;

p. By revising in newly designated paragraph (d)(15) the phrase "ECCN 1532A" to read "ECCN 1099A";

q. By redesignating Advisory Note 5 as new Advisory Note 6 (formerly reserved) and adding a new Advisory Note 5;

r. By revising in the introductory text of Advisory Note 10 the phrase "Advisory Notes 5 and 9" to read "Advisory Note 9";

s. By revising paragraph (a)(3) in Advisory Note 10;

t. By revising in the introductory text of Advisory Note 11 the phrase "are likely to be approved" to read "will receive favorable consideration"; and

u. By adding a new heading "Definitions of Terms" at the end of the Supplement and moving the text of existing Advisory Note 12 to follow the new heading and by adding in alphabetical order new definitions for "Adaptive control" and "Flexible manufacturing unit";

v. By adding a new Advisory Note 12;

w. By removing the Technical Note that precedes the Advisory Note for the People's Republic of China; and

x. By redesignating the Advisory Note for the People's Republic of China as new Advisory Note 13 for the People's Republic of China, as follows:

Supplement No. 3—Computer Software

List of Software Subject to This Supplement to Part 779:

- (a) * * *
- (3) * * *
- (ii) One or more of the functions described in ECCN 1565A (h)(1)(i)(A) to (h)(1)(i)(M) or for "digital computers" or "related equipment" designed or modified for such functions;

Note: This paragraph (a)(3)(ii) does not control:

(a) "Specially designed software" in machine executable form for "digital computers" and "related equipment" therefore that are excluded from control only by Notes 1 or 2 of the heading to ECCN 1565A(h);

(b) "Software" for equipment described by ECCN 1565 (b)(1)(i)(C) or (h)(1)(i)(M), unless the software performs:

- (1) "Multi-data-stream processing" or load sharing functions; or
- (2) Datagram or "fast select" functions as defined in level III of CCITT X.25 or equivalent.

(6) "Software" specially designed for computer aided design (CAD) of patterned

printed circuit board "substrates" that is designed for any of the following:

- (i) Automatically transforming schematic functional descriptions into pattern layouts;
- (ii) Simulation of the performance of the circuit layout;
- (iii) Automatic generation of test string lists (i.e., test vectors) for "substrates" having more than two layers (including the ground plane) of interconnections;

Note: This paragraph (a)(6)(iii) does not control automatic generation of test string lists for continuity testing of "substrates".

(iv) Automatic placement or routing that is designed for performing impedance matching or crosstalk analysis and crosstalk matching;

- (b) * * *
- (4) * * *

(i) "Operating systems" designed or modified for "digital computers" or "related equipment" exceeding the performance limits in paragraphs (b) (1) and (b) (2) of Advisory Note 12 for ECCN 1565A;

- (ii) * * *

- (5) * * *

(v) "Software" to provide "adaptive control" with both of the following characteristics:

(A) For "flexible manufacturing units" (FMUs) that consist at least of equipment described in paragraphs (b) (1) and (b) (2) of the definition for "flexible manufacturing unit" that is listed under the heading "Definitions of Terms" at the end of this Supplement; and

(B) Capable of generating or modifying, in "real time processing", "programs", or data by using the signals obtained simultaneously by means of at least two detection techniques, such as:

- (1) Machine vision (optical ranging);
- (2) Infrared imaging;
- (3) Acoustical imaging (acoustical ranging);
- (4) Tactile measurement;
- (5) Inertial positioning;
- (6) Force measurement;
- (7) Torque measurement;

Note: This paragraph (b) (5) (v) does not control "software" that only provides rescheduling of functionally identical equipment within "flexible manufacturing units" using pre-stored part "programs" and a pre-stored strategy for the distribution of the part "programs".

Advisory Note 5: No written assurance is required for exports under General License GTDR, and no individual validated license is needed to export to Country Groups TVQWY, for "software" that is "standard commercially available" "software", provided all of the following conditions are met:

(a) The software is designed for installation by the user without further support by the supplier;

(b) The software is designed for use on "digital computers" and "related equipment" therefore that do not exceed the performance limits described in ECCN 1565A(h) (2) (iii).

Note: This paragraph (b) permits exports of "standard commercially available" "software" designed for "digital computers" or "related equipment":

(1) Not exceeding the performance limits described in ECCN 1565A(h)(2)(iii), as modified by this paragraph, even when the "software" can be used on "digital computers" or "related equipment" exceeding these limits; or

(2) Belonging to a series containing models exceeding the performance limits described in ECCN 1565A(h)(2)(iii), provided that the "software" can be used on "digital computers" or "related equipment" in series that do not exceed these limits.

(c) The software is generally available to the public through retail selling points, other than those specialized in selling electronic computers to the general public in model series exceeding the limits in paragraph (b) above.

Note: A retail selling point is defined as a facility selling from stock by means of:

- (1) Over-the-counter transactions;
- (2) Mail order transactions;
- (3) Telephone call transactions.

Advisory Note 10: * * *

- (a) * * *

(3) "Specially designed software" for equipment approved for export under ECCN 1565A, Advisory Note 9, for one or more of the functions described in ECCN 1565A (h) (1) (i) (A), (h) (1) (i) (B), or (h) (1) (i) (C);

Advisory Note 12: Licenses are likely to be approved to satisfactory end-users in Country Groups QWY, the People's Republic of China (PRC), and Afghanistan of "software" controlled by paragraph (b) (5) (v) provided that all of the following conditions are met:

- (a) The "software" is limited to machine executable form;
- (b) The end-user does not belong to any of the following industrial sectors:
- (1) Nuclear industry;
- (2) Aerospace industry;
- (3) Shipbuilding;
- (4) Heavy vehicles manufacturing;
- (5) Machine building; or
- (6) Electronics, including microelectronics industry; and

(c) The "flexible manufacturing unit" for which the "software" is specially designed, does not contain more than seven pieces of equipment enumerated in paragraph (b) of the definition for "flexible manufacturing unit" in the Definitions of Terms at the end of this Supplement.

Advisory Note 13 for the People's Republic of China:

Definitions of Terms:

"Adaptive control"—

A control system that adjusts the response from conditions detected during the operation (Ref. ISO 2806-1980).

"Analog computer"—

"Firmware"—

"Flexible manufacturing unit" (sometimes also referred to as "flexible manufacturing

system' (FMS) or 'flexible manufacturing cell' (FMC))—

An entity that includes a combination of at least:

(a) A "digital computer" including its own "main storage" and its own "related equipment"; and

(b) Two or more of the following:

(1) A machine tool described in ECCN

1091A(b);

(2) A dimensional inspection machine described in ECCN [1091A(b)], or another digitally controlled measuring machine controlled by ECCN [1091A(d)];

(3) A "robot" controlled by ECCN 1391A;

(4) Digitally controlled equipment controlled by ECCNs 1080A, 1081A, 1086A, or 1088A;

(5) "Stored program controlled" equipment controlled by ECCN 1355A(b);

(6) Digitally controlled equipment controlled by ECCN 1357A;

(7) Digitally controlled electronic equipment controlled by ECCN 1529A.

"High-level language"— * * *

Supplement No. 4 to Part 779

[Amended]

8. Supplement No. 4 to part 779 (Additional Specifications for Certain Technical Data Requiring a Validated License to All Destinations Except Canada) is amended:

a. By removing paragraphs (b)(3) and (b)(5) in the Technical Note that follows paragraph (2)(b) and redesignating paragraphs (b)(4) and (b)(6) through (b)(9) as new paragraphs (b)(3) and (b)(4) through (b)(7), respectively;

b. By removing the phrase "by ECCN 1354A or" from newly designated paragraph (b)(4) in the Technical Note that follows paragraph (2)(b);

c. By republishing the first sentence of paragraph (4), Technical data;

d. By revising in paragraph (4) the heading of the entry for ECCN 1302A to read "ECCN 4302B";

e. By revising in paragraph (4) the reference "paragraph (c)" in the entry for ECCN 1516A to read "paragraph (b)";

f. By revising in paragraph (4) the heading of the entry for ECCN 1518A to read "ECCN 4518B";

g. By removing in paragraph (4) the entry for ECCN 1519A;

h. By adding in paragraph (4) a new entry for ECCN 4529B immediately following the entry for ECCN 1529A;

i. By revising in paragraph (4) the reference "paragraphs (a) and (c) through (e)" in the entry for ECCN 1531A to read "paragraphs (a), (c), and (d)";

j. By adding in paragraph (4) a new entry for ECCN 4531B immediately following the entry for ECCN 1531A;

k. By adding in paragraph (4) a new entry for ECCN 4568B immediately following the entry for ECCN 1568A;

l. By revising in paragraph (4) the heading of the entry for ECCN 1587A to read "ECCN 4587B" and the phrase "Controlled by ECCN 1587A" in newly designated entry ECCN 4587B to read "Controlled by ECCN 4587B"; and

m. By removing in the introductory text of paragraphs (8) and (9) the parenthetical phrase "(including components controlled under ECCN 1372A)".

as follows:

Supplement No. 4—Additional Specifications for Certain Technical Data Requiring a Validated License to All Destinations Except Canada

* * *

(4) Technical data, including software, for the design and production of commodities that are listed below in numerical order by their respective Export Control Commodity Number. * * *

* * *

ECCN 1529A: * * *

ECCN 4529B: Commodities described under the "List of Equipment Controlled by ECCN 4529B" for launch and ground support equipment usable for complete rocket systems and unmanned air vehicle systems described in § 776.18(a).

ECCN 1531A: * * *

ECCN 4531B: Commodities described in this ECCN 4531B as follows: 1. Avionics equipment usable in complete rocket systems and unmanned air vehicle systems described in § 776.18(a); 2. Vibration test equipment (ECCN 1362A) and wind tunnels (ECCN 1361A); and 3. Launch and ground support equipment usable for the systems described in § 776.18(a).

* * *

ECCN 1568A: * * *

ECCN 4568B: A-D converters described under the "List of Commodities Controlled by ECCN 4568B" when usable in systems described in § 776.18(a) and having any of the following characteristics: Rated for continuous operation at temperatures from below -45 °C to above 55 °C; designed to meet military specifications for ruggedized equipment, or modified for military use; or designed for radiation resistance.

* * *

PART 779—[AMENDED]

Supplement No. 1 to § 799.1

[Amended]

9. In Supplement No. 1 to § 799.1 (the Commodity Control List), the following Export Control Commodity Numbers (ECCNs) are removed:

Commodity Group 0 (Metal-Working Machinery)

ECCNs: 1075A and 1093A;

Commodity Group 1 (Chemical and Petroleum Equipment)

ECCN 1129A;

Commodity Group 2 (Electrical and Power-Generating Equipment)

ECCNs: 1203A and 1206A;

Commodity Group 3 (General Industrial Equipment)

ECCNs: 1305A, 1354A, 1356A, 1359A, 1360A, 1365A, and 1372A;

Commodity Group 4 (Transportation Equipment)

ECCN 1425A;

Commodity Group 5 (Electronics and Precision Instruments)

ECCNs: 1514A, 1521A, 1532A, 1544A, 1545A, 1547A, 1559A, and 1588A;

Commodity Group 6 (Metals, Minerals, and Their Manufactures)

ECCN 1635A;

Commodity Group 7 (Chemicals, Metalloids, Petroleum Products and Related Materials)

ECCNs: 1734A, 1749A, and 1760A;

Supplement No. 1 to § 799.1

[Amended]

10. In Supplement No. 1 to § 799.1 (the Commodity Control List), Group 0 (Metal-Working Machinery), ECCN 1091A is amended: a. By adding a sentence at the end of the *Validated License Required* paragraph;

b. By adding a *Technical Data and Software* paragraph immediately preceding the *GLV \$ Value Limit* paragraph;

c. By adding new Technical Notes 1 through 3 immediately following the *Special Licenses Available* paragraph; and

d. By revising the "List of Commodities Controlled by ECCN 1091A"; and

e. By revising the remainder of the entry as follows:

1091A "Numerical control" units, "numerically controlled" machine tools, components, specially designed parts and sub-assemblies, "specially designed software" and technical data as follows

* * *

Validated License Required: * * * See the "Technical Data and Software" paragraph below for license requirements for technical data and software described in this ECCN.

Technical Data and Software: GTDR is available for Country Groups T and V, except the People's Republic of China and Afghanistan, for technical data described in (c)(1) through (c)(10) of the list below.

GLV \$ Value Limit: * * *

* * *

Special Licenses Available: * * *

Technical Notes: 1. For the purpose of this ECCN, machine tools for removing, cutting or spark eroding metal, ceramics or composites are categorized as follows:

(a) Machine tools for turning, including:

- (1) Horizontal turning machines;
- (2) Vertical turning machines;
- (3) Turning centers, with or without milling or grinding options;
- (4) Machines for generating optical quality surfaces;

Note: For non-"numerically controlled" machine tools capable of generating optical quality surfaces, see ECCN 1376A.

- (b) Machine tools for milling, including:
 - (1) Boring machines;
 - (2) Boring-milling machines;
 - (3) Milling machines;
 - (4) Machining centers, with or without turning or grinding options;
 - (5) Machine tools for routing;
 - (c) Machine tools for grinding with or without milling or turning options, including:
 - (1) Jig grinding machines;
 - (2) Contour grinding machines;
 - (3) Tool and cutter grinding machines;
 - (d) Machine tools using electric discharge for machining;
 - (e) Other machines tools, as follows:
 - (1) Water and other liquid jet machines;
 - (2) Electron beam cutting machines; or
 - (3) Laser cutting machines.

Note: For broaching machines, see ECCNs 1080A, 1086A and 1088A.

2. Not counted in the total number of contouring axes are secondary parallel contouring axes, e.g., W-axis on horizontal boring mills or a secondary rotary axis the center line of which is parallel to the primary rotary axis.

3. Axis nomenclature shall be in accordance with International Standard ISO 841, "Numerical Control Machines—Axis and Motion Nomenclature".

Note: Rotary axes do not necessarily have to rotate over 360°. A rotary axis can be driven by a linear device, e.g., a screw or a rack-and-pinion.

List of Commodities Controlled by ECCN 1091A

(a) "Numerical control" units for machine tools, having any of the following characteristics, and "specially designed software" and specifically designed components therefor:

Note: "Software" (including documentation) for "numerical control" units that may be exported under General License GTDR must be:

- (a) In machine executable form only;
- (b) Limited to the minimum necessary for the use (i.e., installation, operation and maintenance) of these units.

(1) More than three interpolating axes can be coordinated simultaneously for "contouring control"; or

(2) Two or three interpolating axes can be coordinated simultaneously for "contouring control" and one or more of the following conditions are fulfilled:

(i) The smallest programmable increment, i.e., the input resolution, for any linear axis is less than 0.001 mm;

Note: In case of units with only two linear axes one of them may have a smallest programmable increment of less than 0.001 mm but not less than 0.0005 mm.

(ii) Interpolation of third order or higher is possible (e.g., spline or involute interpolation);

(iii) Word size of more than 32 bit (excluding parity bits);

(iv) Capable of "real-time processing" of data to modify, during the machining operation, tool path, feed rate and spindle data by either:

(A) Automatic calculation and modification of part program data for machining in two or more axes by means of measuring cycles and access to source data; or

(B) "Adaptive Control" with more than one physical variable measured and processing by means of a computing model (strategy) to change one or more machining instructions to optimize the process;

(v) Capable of receiving directly (on-line) and processing computer aided design (CAD) data for internal preparation of machine instructions.

Notes: 1. This sub-paragraph does not control "numerical control" units, if they are either:

(a) Modified for and incorporated in machines not described in an ECCN on this List; or

(b) Specially designed for machines not described in any ECCN on this List.

2. For "digital computers" not "embedded" in numerical control units, see ECCN 1585A.

3. This sub-paragraph controls "numerical control" units that, according to the manufacturer's technical specifications, are capable, without modification, of accepting additional boards that would permit increasing the number of interpolating axes, which can be coordinated simultaneously for "contouring control," above the control levels, even if they do not contain these additional boards.

(b) Machine tools, as follows, for removing, cutting or spark eroding metals, ceramics or composites:

(1) Machine tools for turning that:

(i) According to the manufacturer's technical specifications, can be equipped with "numerical control" units controlled by paragraph (a), even when not equipped with such units at delivery;

(ii) Have two or more axes that can be coordinated simultaneously for "contouring control"; and

(iii) Have one or more of the following characteristics:

(A) Two or more contouring rotary axes;

(B) "Run out" (out-of-true running) in one revolution of the spindle less (better) than 0.0008 mm total indicator reading (TIR);

(C) "Camm" (axial displacement) in one revolution of the spindle less (better) than 0.0008 mm total indicator reading (TIR);

(D) The "positioning accuracies," with all compensations available, are better than:

(1) Along any linear axis regarding overall positioning:

(i) 0.006 mm for a total length of axis travel L equal to or shorter than 500 mm;

(ii) $(0.006 + 0.001 \times (L - 500)/500)$ mm if L is longer than 500 mm and shorter than 5,500 mm;

(iii) 0.016 mm if L is equal to or longer than 5,500 mm;

(2) Of any rotary axis 0.001°;

(2) Machine tools for milling that:

(i) According to the manufacturer's technical specifications, can be equipped with "numerical control" units controlled by paragraph (a), even when not equipped with such units at delivery;

(ii) Have two or more axes that can be coordinated simultaneously for "contouring control"; and

(iii) Have one or more of the following characteristics:

(A) Two or more contouring rotary axes;

(B) One or more contouring "tilting spindles";

(C) "Run out" (out-of-true running) in one revolution of the spindle less (better) than $2 \times D \times 10^{-5}$ mm total indicator reading (TIR) where D equals the diameter of the axis in mm;

(D) The "positioning accuracies," with all compensations available, are better than:

(1) Along any linear axis regarding overall positioning:

(i) 0.006 mm in case none of the axes exceeds a total length of axis travel L of 650 mm;

(ii) If the total length of axis travel L of any axis is longer than 650 mm, 0.008 mm or $(0.008 + 0.0015 \times (L - 500)/500)$ mm whichever is higher, for all axes up to 5,500 mm of travel; or

(iii) 0.023 mm for any axis the total length L of which is equal to or longer than 5,500 mm;

(2) Of any rotary axis 0.001°;

(E) A motor power of any spindle of more than 75 kW;

(3) Machine tools for grinding that:

(i) According to the manufacturer's technical specifications, can be equipped with "numerical control" units controlled by paragraph (a), even when not equipped with such units at delivery;

(ii) Have two or more axes that can be coordinated simultaneously for "contouring control"; and

(iii) Have one or more of the following characteristics:

(A) Two or more contouring rotary axes;

(B) One or more contouring "tilting spindles";

(C) "Run out" (out-of-true running) in one revolution of the spindle less (better) than 0.0008 mm total indicator reading (TIR);

(D) The "positioning accuracies", with all compensations available, are better than:

(1) Along any linear axis regarding overall positioning:

(i) 0.004 mm for a total length of axis travel L equal to or shorter than 300 mm;

(ii) $0.004 + 0.001 \times (L - 300)/300$ mm if L is longer than 300 mm and shorter than 3,300 mm;

(iii) 0.014 mm if L is equal to or longer than 3,300 mm;

(2) Of any rotary axis 0.001°;

Note: This sub-paragraph does not control tool or cutter grinding machines having all of the following characteristics:

(a) No more than four axes that can be coordinated simultaneously for "contouring control";

(b) No more than two rotary axes can be coordinated simultaneously for "contouring control";

(c) "Run out" (out-of-true running) in one revolution of the spindle more (worse) than 0.0008 mm total indicator reading (TIR);

(d) The "positioning accuracies", with all compensations available, are not better than:

(1) 0.004 mm along any linear axis regarding overall positioning;

(2) Of any rotary axis 0.001°; and

(e) A maximum slide travel along any axis of less than 200 mm;

(4) Electrical discharge machines (EDM) of the wire feed type that have five or more contouring axes and that are capable of being equipped with:

(i) "Numerical control" units

controlled by paragraph (a) above; or

(ii) Electronic controllers controlled by ECCN 1391A (b);

(5) Electrical discharge machines (EDM) of the non-wire type that have two or more contouring rotary axes and that are capable of being equipped with:

(i) "Numerical control" units

controlled by paragraph (a) above; or

(ii) Electronic controllers controlled by ECCN 1391A (b);

(6) Machine tools for removing metals, ceramics or composites:

(i) By means of:

(A) Water or other liquid jets, including those employing abrasive additives;

(B) Electron beam; or

(C) Laser beam; and

(ii) Having all of the following characteristics:

(A) According to the manufacturer's technical specifications, they can be equipped with "numerical control" units controlled by paragraph (a), even when they are not equipped with such units at delivery; and

(B) They have two or more rotary axes that:

(7) Can be coordinated simultaneously for "contouring control"; and

(2) Have a "positioning accuracy" of better than 0.01 degree of arc;

Notes: 1. Machines that are controlled by their number of contouring axes are not excluded from control even if the numerical control unit attached to the machine limits it to the allowed number of simultaneously coordinated contouring axes.

2. Machine tools that are capable of performing more than one type of machining (e.g., a turning/milling center) are controlled if they meet or exceed criteria set out for one or more of the types of machining which they are capable of performing.

3. The number of axes on a machine tool that is equipped with the necessary mechanical and electrical interfaces for an optional rotary axis are to be counted as if the machine is equipped with such an axis.

(c) Technical data for:

(1) The development of "numerical control" units described in paragraph (a) above;

(2) The production of "numerical control" units, having any of the following characteristics:

(i) Controlled by paragraph (a) above; or

(ii) Containing a microprocessor with:

(A) A word length of 32 bit; and

(B) A bus architecture for 32 bit;

(3) The development of "numerically controlled" machine tools described in paragraph (b) above;

(4) The production of "numerically controlled" machine tools, having any of the following characteristics:

(i) Controlled by paragraph (b) above; or

Notes: This does not exclude from control technical data for the production of "numerically controlled" machine tools containing tilting tables if that technical data is the same as that for such machine tools when containing "tilting spindles".

(ii) A "positioning accuracy" along any linear axis of better than 20 micrometer;

(5) The development of components described in paragraphs (d) and (e) below;

(6) The production of components or sub-assemblies, having any of the following characteristics:

(i) Controlled by paragraphs (d) or (e)(2) below; or

Note: For the control status of the production equipment for printed circuit boards, see ECCN 1355A.

(ii) Not controlled by paragraphs (d)(2) or (d)(3) below;

(7) The development of interactive graphics as an integrated part in "numerical control" units for preparation or modification of part programs;

(8) The development of generators of machine tool instructions (e.g., part programs) from design data residing inside "numerical control" units;

(9) The incorporation of expert systems for advanced decision support of shop floor operations;

(10) Technical data for the development of "flexible manufacturing units" used with the "software" controlled by paragraph (b)(5)(v) in the "List of Software" in Supplement No. 3 to part 779;

(d) Components and specially designed parts, as follows, for machine tools controlled by paragraph (b):

(1) Spindle assemblies, consisting of spindles and bearings as a minimal assembly, with "run-out" (out-of-true running) less than:

(i) 0.008 mm total indicator reading (TIR also peak-to-peak) for machine tools for turning or grinding; or

(ii) $2 \times D \times 10^{-6}$ mm total indicator reading (TIR also peak-to-peak), where D equals the diameter of the axis in mm, for machine tools for milling;

(2) Linear position feedback units, e.g., inductive type devices, graduated scales, laser or infrared systems having, with compensation, an overall "accuracy" better than $\pm (0.0015 + L \times 10^{-6})$ mm, L equal the effective length in mm of the linear measurement;

(3) Rotary position feedback units, e.g., inductive type devices, graduated scales, laser or infrared systems having, with compensation, an "accuracy" better than $\pm 0.00025^\circ$ of arc;

(4) Slide way assemblies consisting of a minimal assembly of ways, bed and slide with all of the following characteristics:

(i) A yaw, pitch or roll of less than 2 seconds of arc, total indicator reading (reference: ISO/DIS 230-1);

(ii) A horizontal straightness of less than 4 micrometer; and

(iii) A vertical straightness of less than 4 micrometer;

(5) Ball screws, having all of the following characteristics (reference: ISO/DIS 3408-3):

(i) Sum of tolerance of mean travel deviation (e) and half the travel variation (V_a) less than $(0.0025 + 5 \times 10^{-6} \times L)$ mm, where L is the useful travel in mm of the ball screw;

(ii) Tolerance of travel variation (V_{300}) within 300 mm travel of the ball screw less than 0.004 mm;

(iii) "Run-out" (out-of-true running) of the journal diameter related to the screw shaft outer diameter less than 0.005 mm TIR (peak-to-peak) at an axial distance of 3 or more times the screw shaft outer diameter from the end of the journal;

(6) Single point diamond cutting tool inserts having all of the following characteristics:

- (i) A flawless and chip-free cutting edge when magnified 400 times in any direction;
- (ii) A cutting radius out-of-roundness less than 0.002 mm total indicator reading (TIR, also peak-to-peak); and
- (iii) A cutting radius between 0.1 and 5.0 mm;

(7) Linear induction motors used as drives for slides having all the following characteristics:

- (i) A stroke longer than 200 mm for linear slides;
- (ii) A nominal force rating above 45 N; and
- (iii) A minimal controlled incremental movement less than 0.001 mm for linear motion;

(e) Specially designed components or sub-assemblies, as follows, capable of upgrading, according to the manufacturer's specifications, "numerical control" units, machine tools or feed-back devices to or above the levels controlled in paragraphs (a), (b), (d)(2) or (d)(3):

(1) Printed circuit boards with mounted components and "software" therefor;

(2) "Compound rotary tables";

Note: For "sensors", see ECCN 1391A.

Technical Note: Definitions of terms:

Accuracy—Usually measured in terms of inaccuracy, defined as the maximum deviation, positive or negative, of an indicated value from an accepted standard or true value.

Adaptive control—A control system that adjusts the response from conditions detected during the operation (Ref. ISO 2806-1990).

Camming (axial displacement)—Axial displacement in one revolution of the main spindle measured in a plane perpendicular to the spindle faceplate, at a point next to the circumference of the spindle faceplate (see ISO 230 Part 1-1986, paragraph 5.63);

Compound rotary table—A table allowing the workpiece to rotate and tilt about two non-parallel axes, which can be coordinated simultaneously for "contouring control".

Contouring control—Two or more "numerically controlled" motions operating in accordance with instructions that specify the next required position and the required feed rates to that position. These feed rates are varied in relation to each other so that a desired contour is generated (Ref. ISO 2806-1990).

Numerical control—The automatic control of a process performed by a device that makes use of numeric data usually introduced as the operation is in progress (Ref. ISO 2382).

Positioning accuracy—Of "numerically controlled" machine tools are to be determined and presented in accordance with ISO/DIS 230/2, paragraph 2.13, in conjunction with the requirements below:

(a) Test conditions (ISO/DIS 230/2, paragraph 3):

(1) For 12 hours before and during measurements, the machine tool and accuracy measuring equipment will be kept at the same ambient temperature. During the premeasurement time the slides of the machine will be continuously cycled in the same manner that the accuracy measurements will be taken;

(2) The machine shall be equipped with any mechanical, electronic, or software compensation to be exported with the machine;

(3) Accuracy of measuring equipment for the measurements shall be at least 4 times more accurate than the expected machine tool accuracy;

(4) Power supply for slide drives shall be as follows:

(i) Line voltage variation shall not be greater than ± 10 percent of nominal rated voltage;

(ii) Frequency variation shall not be greater than ± 2 Hz of normal frequency;

(iii) Lineouts or interrupted service are not permitted.

(b) Test Program (ISO/DIS 230/2, paragraph 4):

(1) Feed rate (velocity of slides) during measurement shall be the rapid traverse rate;

N.B.: In case of machine tools that generate optical quality surfaces the feed rate shall be equal to or less than 50 mm per minute;

(2) Measurements shall be made in an incremental manner from one limit of the axis travel to the other without returning to the starting position for each move to the target position;

(3) Axes not being measured shall be retained at mid travel during test of an axis.

(c) Presentation of test results (ISO/DIS 230/2, paragraph 2):

The results of the measurements must include:

- (1) "positioning accuracy" (A); and
- (2) The mean reversal error (B).

Real-time processing—Processing of data by an electronic computer in response to an external event according to time requirements imposed by the external event.

Run out (out-of-true running)—Radial displacement in one revolution of the main spindle measured in a plane perpendicular to the spindle axis at a point on the external or internal revolving surface to be tested (see ISO 230 Part 1-1986, paragraph 5.61);

Tilting spindle—A tool holding spindle which alters, during the machining process, the angular position of its center line with respect to any other axis.

Advisory Note 1. Licenses will receive favorable consideration for export to satisfactory end-users in Country Groups QWY of turning machines controlled by paragraph (b)(1) provided:

(a) They are not intended for use in nuclear related activities; and

(b) They have all the following characteristics:

(1) Only two axes which can be coordinated simultaneously for "contouring control";

(2) The "positioning accuracy", with all compensation available, is not better than 2 micrometer per 300 mm of travel;

(3) Geometric alignment of the axes, parallel or perpendicular to each other not better than 1 micro-meter per 300 mm of travel;

(4) Slide travel in both axes not longer than 400 mm.

(5) "Run out" (out-of-true running) in one revolution of the spindle more (worse) than 0.0004 mm total indicator reading (TIR); and

(6) "Camming" (axial displacement) in one revolution of the spindle more (worse) than 0.0004 mm total indicator reading (TIR);

(Advisory) Note 2. Licenses will receive favorable consideration for export to satisfactory end-users in Country Groups QWY of technical data for the production of "numerical control" units not controlled by paragraph (a) of ECCN 1091A which contain a microprocessor with:

(a) A word length of 32 bit; and

(b) A bus architecture for 32 bit.

(Advisory) Note 3. Licenses will receive favorable consideration for export to satisfactory end-users in Country Groups QWY of technical data for the production of machine tools not controlled by paragraph (b) with a "positioning accuracy" better than 200 micrometer.

(Advisory) Note 4 for the People's Republic of China: Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of "numerical control" units controlled by paragraph (a) having both of the following characteristics, and specially designed components and "specially designed software" therefor:

(a) Four interpolating axes can be coordinated simultaneously for "contouring control"; and

(b) Not controlled by paragraph (a)(2)(i) to (a)(2)(v) of this ECCN 1091A.

(Advisory) Note 5 for the People's Republic of China: Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of machine tools controlled by paragraph (b)(2) having all of the following characteristics:

(a) Along any linear axis that is longer than 650 mm, the "positioning accuracies", with all compensations available, are equal to or more (worse) than:

(1) 0.006 mm for a total length of axis travel L equal to or shorter than 300 mm;

(2) $(0.006 + 0.002 \times (L - 300)/300)$ mm if L is longer than 300 mm and equal to or shorter than 680 mm;

(3) $(0.008 + 0.0015 \times (L - 500)/500)$ mm if L is longer than 680 mm and shorter than 5,500 mm; or

(4) 0.023 mm if L is equal to or longer than 5,500 mm; and

(b) Not controlled by paragraphs (b)(2)(iii)(A), (b)(2)(iii)(C) or (b)(2)(iii)(D)(2) of this ECCN 1091A.

Supplement No. 1 to § 799.1 [Amended]

11. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 0 (Metal-Working Machinery), a new ECCN 5091F is added immediately following the entry for ECCN 1091A to read as follows:

5091F Numerically controlled machine tools and dimensional inspection machines not controlled by ECCN 1091A.

Controls for ECCN 5091F

Unit: Report machines in "number"; parts and accessories in "\$ value."

Validated License Required: Country Groups S and Z, Taiwan, and countries listed in Supplement No. 4 to Part 778.

GLV \$ Value Limit: \$0 for Country Groups S and Z, \$5,000 for all other destinations.

Processing Code: TE.

Reason for Control: Nuclear non-proliferation.

List of Commodities for ECCN 5091F

Numerically controlled machine tools and dimensional inspection machines having:

(a) Two or more axes that can be coordinated simultaneously for contouring control; and

(b) One or more of the following characteristics:

(1) Two or more contouring rotary axes;

(2) "Run out" (out-of-true running) in one revolution of the spindles less (better) than 0.0008 mm total indicator reading (TIR);

(3) "Camming" (axial displacement) in one revolution of the spindle less (better) than 0.0008 mm total indicator reading (TIR);

(4) The "positioning accuracies", with all compensations available, are better than:

(i) Along any linear axis regarding overall positioning:

(A) 0.012 mm for a total length of axis travel L equal to or shorter than 500 mm;

(B) $0.012 + 0.001 \times (L - 500) / 500$ mm if L is longer than 500 mm and shorter than 5,500 mm;

(C) 0.022 mm if L is equal to or longer than 5,500 mm;

(ii) Of any rotary axis 0.002.

Supplement No. 1 to § 799.1 [Amended]

11a. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group O (Metal-Working Machinery), a new ECCN 1099A is added to follow ECCN 4094B, as follows:

1099A Dimensional inspection systems or devices, and specially designed components and "specially designed software" therefor.

Controls for ECCN 1099A

Unit: Report machines in "number"; parts and accessories in "value".

Validated License Required: Country Groups QSTVWYZ.

GLV \$ Value Limit: \$5,000 for Country Groups T & V, except \$0 for the People's

Republic of China; \$0 for all other destinations.

Processing Code: TE.

Reason for Control: National security; nuclear non-proliferation. Nuclear non-proliferation controls apply only to items described in paragraphs (c) or (d) of the List below. There are no controls for nuclear non-proliferation reasons on exports to those countries listed Supp. No. 2 or 3 to Part 773.

Special Licenses Available: See Part 773.

List of Equipment Controlled by ECCN 1099A

(a) Manual dimensional inspection machines with two or more axes, and "measurement uncertainty" equal to or less (better) than $(0.25 + L/1000)$ micrometer in any axis (L measured length in mm).

Note: Paragraph (a) of this ECCN 1099A does not control optical comparators.

(b) Computer controlled or "numerically controlled" dimensional inspection machines having both of the following characteristics:

(1) Two or more axes; and

(2) A one dimensional (1D) length "measurement uncertainty" equal to or less (better) than $(1.5 + L/1000)$ micrometer tested with a probe of an "accuracy" of less (better) than 0.2 micrometer (L measured length in mm) (Ref: VDI/VDE 2617 part 1 and 2);

(c) Linear and angular displacement measuring devices, as follows:

(1) Linear measuring instruments having any of the following characteristics:

(i) Non-contact type measuring systems with a "resolution" equal to or less (better) than 0.2 micrometer within a measuring range up to 0.2 mm;

(ii) Linear voltage differential transformer systems having both of the following characteristics:

(A) "Linearity" equal to or less (better) than 0.1% within a measuring range up to 5 mm; and

(B) Drift equal to or less (better) than 0.1% per day at a standard ambient test room temperature ± 1 K; or

(iii) Measuring systems that have both of the following characteristics:

(A) Contain a "laser"; and
(B) Maintain for at least 12 hours, over a temperature range of ± 1 K around a standard temperature and at a standard pressure:

(1) A "resolution" over their full scale of ± 0.1 micrometer or better; and

(2) With a "measurement uncertainty" equal to or less (better) than $0.2 + L/2000$ micrometer (L measured length in mm);

(2) Angular measuring instruments having an "angular position deviation" equal to or less (better) than 0.00025°;

Note: Paragraph (c) of this ECCN 1099A does not control optical instruments, such as autocollimators, using collimated light to detect angular displacement of a mirror.

(d) Systems for simultaneous linear-angular inspection of hemispheres, having both of the following characteristics:

(1) "Measurement uncertainty" along any linear axis equal to or less (better) than 3.5 micrometer per 5 mm; and

(2) "Angular position deviation" equal to or less than 0.02°.

Note: "Specially designed software" for the systems described in paragraph (d) of this ECCN 1099A includes "software" for simultaneous measurements of wall thickness and contour.

Technical Notes: 1. Machine tools that can be used as measuring machines are controlled if they meet or exceed the criteria specified for the machine tool function or the measuring machine function.

2. A machine is controlled if it exceeds the control threshold anywhere within its operating range.

3. The probe used in determining the "measurement uncertainty" of a dimensional inspection system shall be as described in VDI/VDE 2617 part 2.3.4.

4. All parameters or measurement values in this ECCN 1099A represent permissible positive and negative deviations from the target value, i.e., not total band.

Advisory Note: Licenses are likely to be approved for export to satisfactory end-users in Country Groups Q, W, and Y of equipment controlled by paragraph (c)(1) of this ECCN 1099A to civil end-users not engaged in aerospace or nuclear activities.

(For "numerical control" units, see ECCN 1091A(a).)

Supplement No. 1 to § 799.1 [Amended]

12. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 3 (General Industrial Equipment), ECCN 1302A is amended by revising ECCN "1302A" to read "4302B" in the heading for the ECCN and in the heading "Controls for ECCN" and by revising the phrase "National security; foreign policy." to read "Foreign policy." in the Reason for Control paragraph.

Supplement No. 1 to § 799.1 [Amended]

13. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 3 (General Industrial Equipment), ECCN 1312A is amended:

a. By revising the heading for the ECCN;

b. By revising paragraphs (a) and (b) in the List of Equipment;

c. By adding a new Note immediately following paragraph (b); and

d. By removing the Advisory Note, the Note following the Advisory Note, and the Advisory Note for the People's Republic of China, as follows:

1312A "Isostatic presses", and specially designed dies and moulds, components, accessories and controls and "specially designed software" therefor.

List of Equipment Controlled by ECCN 1312A
"Isostatic presses", as follows:

(a) Having a controlled thermal environment within the closed cavity and possessing a chamber cavity with an inside diameter of 127 mm or more; and

(b) Having any of the following characteristics:

(1) Maximum working pressure exceeding 207 MPa;

(2) Chamber cavity with an inside diameter (i.e., the maximum inside diameter of the working chamber) exceeding 406 mm, when the controlled thermal environment that can be achieved and maintained exceeds 1,500 °C; or

(3) Having a facility for hydrocarbon impregnation and removal of resultant gaseous degradation products.

Note: The inside chamber dimension referenced in paragraph (b) is the chamber in which both the working temperature and the working pressure are achieved. That dimension will be the smaller of either the inside diameter of the pressure chamber or the inside diameter of the insulated furnace chamber, depending on which of the two chambers is located inside the other. The insertion of fixturing leaves a smaller diameter in the chamber for the piece to be pressed.

Technical Note: * * *

Supplement No. 1 to § 799.1 [Amended]

14. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 3 (General Industrial Equipment), ECCN 5312F is added immediately following ECCN 1312A to read as follows:

5312F Isostatic presses, specially designed dyes and molds, components, accessories, and controls not controlled by ECCN 1312A.

Controls for ECCN 5312F

Unit: Report machines in "number", parts and accessories in "\$ value."

Validated License Required: Country Groups S and Z, Taiwan, and countries listed in Supplement No. 4 to part 778.

GLV \$ Value Limit: \$0 for Country Groups S and Z, \$5,000 for all other destinations.

Processing Code: TE.

Reason for Control: Nuclear non-proliferation.

List of Equipment Controlled by ECCN 5312F
"Isostatic presses", as follows:

(a) Having a controlled thermal environment within the closed cavity and possessing a chamber cavity with an inside diameter of 127 millimeters (5 inches) or more; or

(b) Capable of achieving a maximum working pressure of 69 megapascals (10,000 psi) or greater and possessing a chamber cavity with an inside diameter in excess of 254 millimeters (10 inches).

Supplement No. 1 to § 799.1 [Amended]

15. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 3 (General Industrial Equipment), ECCN 1353A is amended:

a. By revising paragraphs (a) through (d) in the List of Equipment and the Note that follows paragraph (d);

b. By removing Note 1 and (Advisory) Note 2; and

c. By redesignating (Advisory) Note 3 for the People's Republic of China as (Advisory) Note and revising the newly designated (Advisory) Note, as follows:

1353A Manufacturing and testing equipment for optical fiber, optical cable and other cables, and specially designed components therefor.

* * *

List of Equipment Controlled by ECCN 1353A

(a) Equipment specially designed to manufacture cable controlled by ECCN 1526A (a) or (d);

(b) Equipment specially designed to manufacture optical fiber controlled by ECCN 1526A;

(c) Equipment specially designed to manufacture "optical fiber preforms" controlled by ECCN 1767A;

(d) Optical fiber and "optical fiber preform" characterization equipment using semiconductor "lasers" for the testing of optical fibers or "optical fibers preforms" at operating wavelengths exceeding 1,000 nm;

Note: The status of optical fiber and "optical fiber preform" characterization equipment that contains "lasers" is defined in this ECCN 1353A.

(Advisory) Note: Licenses are likely to be approved for export to satisfactory end-users in Country Groups Q, W, and Y and the People's Republic of China of the following:

(a) Optical fiber or "optical fiber preform" characterization equipment using semiconductor "lasers" with a wavelength of 1,370 nm or less;

(b) Equipment specially designed for the manufacture of silica-based "optical fiber preforms", optical fibers or cables.

Supplement No. 1 to § 799.1 [Amended]

16. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 3 (General Industrial Equipment), ECCN 1370A is amended by adding a

new Note immediately preceding the heading "Controls for ECCN", as follows:

1370A Machine tools for generating optical quality surfaces, specially designed components and accessories therefor.

* * *

Note: For "numerically controlled" machine tools capable of generating optical quality surfaces, see ECCN 1091A.

* * *

Supplement No. 1 to § 799.1 [Amended]

17. Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 3 (General Industrial Equipment), ECCN 1358A is amended by removing (Advisory) Note 3 for the People's Republic of China and by adding a new Note 3 to read as follows:

1358A Equipment specially designed for the manufacture or testing of devices and assemblies thereof controlled by ECCN 1588A or magnetic recording media described in ECCN 1572A and specially designed components therefor

* * *

Note 3: This ECCN 1358A does not control: (a) "Automatic" equipment for monitoring, grading, exercising or testing recording media controlled by paragraph (d) of ECCN 1572A having the following characteristics:

(1) For digital recording tape, a maximum recording density of less than 3,937 bits per cm; or

(2) For analog recording tape, a coating thickness greater than 2.54 micrometers; (b) Diskette unit test equipment.

Supplement No. 1 to § 799.1 [Amended]

18. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 3 (General Industrial Equipment), ECCN 1391A is amended:

a. By revising in paragraph (b) of Note 2 that follows paragraph (a)(4) the phrase "16-bit" to read "32-bit";

b. By removing the Note that follows Note 2 that follows paragraph (a)(4);

c. By revising the reference "ECCN 1532A" in paragraph (a)(10) to read "ECCN 1099A";

d. By revising the phrase "numerically controlled" in Note 1 that follows paragraph (b) to read "numerically controlled";

e. By removing paragraph (b)(3) and redesignating paragraphs (b)(4), (b)(5), (b)(6), and (b)(7) as new paragraphs (b)(3), (b)(4), (b)(5), and (b)(6), respectively;

f. By revising the phrase "16-bit" in newly designated paragraph (b)(4) to read "32-bit" and removing the Note that follows paragraph (b)(4);

g. By revising the reference "(b)(7)" in the Note that follows newly designated paragraph (b)(6)(vi) to read "(b)(6)";

h. By removing paragraph (c)(2) and redesignating paragraph (c)(3) as new paragraph (c)(2);

i. By removing Advisory Note 2 for the People's Republic of China and its two notes and adding a new Note 2; and

j. By adding a new (Advisory) Note 3 for the People's Republic of China, as follows:

1391A "Robots", "robot" controllers and "robot" end-effectors; and specially designed components therefor

Note 2: This ECCN 1391A does not control:

(a) "Robots" controlled for export by paragraph (a) of this ECCN 1391A that are for civil use and not covered by paragraphs (a)(2) to (a)(8), (a)(10) or (a)(11);

(b) Electronic controllers described in paragraph (b) for the control of "robots" eligible for treatment under this Note;

(c) "End effectors" controlled by paragraph (c) for use with "robots" eligible for treatment under this Note;

(d) Vision systems, limited as follows:

(1) Capable of processing no more than 100,000 pixels using an industrial television camera, or no more than 65,536 pixels using a solid-state camera;

(2) Not programmable by the user *except*:

(i) To input reference images through the system's camera;

(ii) To input values of fixed parameters, including teach-in parameters; or

(iii) To select pre-programmed sub-routines;

(3) Not capable of continuous reaction or continuously updating the "robot" position while the "robot" is moving;

Note: This limitation precludes the use of vision systems for weld seam tracking during the welding operation but does not preclude straight-line or single-plane weld seam tracking using a single pass.

(4) Capable of no more than one scene analysis every 0.02 second;

(5) The "software" provided for the vision processor shall be in "object code" only and shall not be capable of full three-dimensional mathematical modeling or full three-dimensional scene analysis.

Note: This scene analysis limitation does not preclude approximation of the third dimension by viewing at a given angle, nor limited gray scale interpretation for the perception of depth or texture for the approved tasks (2½D).

(Advisory) Note 3 for the People's Republic of China: Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of "robots" equipped with vision systems capable of processing no more than 200,000 pixels using an industrial television camera or a solid-state camera.

Supplement No. 1 to § 799.1 [Amended]

19. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity

Group 5 (Electronics and Precision Instruments), ECCN 1516A is amended:

a. By removing the parenthetical sentence in the heading of the ECCN;

b. By revising in the *Commodities Not Eligible for GCT* paragraph and in the *Reason for Control* paragraph the reference "paragraph (c)" to read

"paragraph (b)" both places it appears;

c. By removing, in the List of Receivers, paragraph (a) and redesignating paragraphs (b) through (d) as new paragraphs (a) through (c), respectively;

d. By revising newly designated paragraphs (a) through (c);

e. By adding a new Note following newly designated paragraph (c);

f. By removing the parenthetical sentence and the Note following Technical Note 2; and

g. By removing the Advisory Note, as follows:

1516A Receivers, and specially designed components and accessories therefor.

List of Receivers and Specialized Parts and Accessories Controlled by ECCN 1516A

(a) Digitally controlled radio receivers, whether or not computer controlled, that search or scan automatically a part of the electromagnetic spectrum, in which the switching operation takes less than 4.5 ms, and that indicate or identify the received signals, *except* non-ruggedized, pre-set type radio receivers designed for use in civil communications that have 1,000 selective channels or fewer;

(b) Receivers for "spread spectrum" and "frequency agile" systems having a total transmitted bandwidth that is:

(1) 100 or more times greater than the bandwidth of any one information channel; and

(2) In excess of 50 kHz;

(c) Receivers that incorporate digital signal processing, *except* receivers specially designed for internationally allocated civil frequency bands only and that do not permit "user-accessible programmability" of the digital signal processing circuits.

Note: (1) For radio frequency spectrum analyzers, see ECCN 1533A;

(2) For field strength meters, see ECCN 1529A; and

(3) For radio relay communications equipment, see ECCN 1520A.

Supplement No. 1 to § 799.1 [Amended]

20. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1518A is amended:

a. By revising ECCN "1518A" to read "4518B" in the ECCN heading and in the heading "Controls for ECCN";

b. By revising the phrase "National security; foreign policy." at the beginning of the *Reason for Control* paragraph to read "Foreign policy."; and

c. By revising the text of the *Special Licenses Available* paragraph to read "None available."

Supplement No. 1 to § 799.1 [Amended]

21. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1519A is amended:

a. By revising the *Reason for Control* paragraph;

b. By adding a new Note immediately following the heading "List of Equipment Controlled";

c. By removing the parenthetical phrase in paragraph (a)(1)(i);

d. By revising the Note that follows paragraph (a)(1)(ii);

e. By removing paragraph (a)(2)(i) and redesignating paragraphs (a)(2)(ii) and (a)(2)(iii) as new paragraphs (a)(2)(i) and (a)(2)(ii), respectively;

f. By adding a new paragraph (a)(3) immediately following newly designated paragraph (a)(2)(ii);

g. By redesignating paragraph (b) as new paragraph (c) and adding a new paragraph (b) immediately preceding newly designated paragraph (c);

h. By removing the Technical Note that follows newly designated paragraph (c);

i. By redesignating (Advisory) Notes 3 and 4 for the People's Republic of China as new (Advisory) Notes 4 and 5 for the People's Republic of China and adding a new (Advisory) Note 3;

j. By revising a newly designated (Advisory) Note 5 for the People's Republic of China the phrase "paragraph (a)(2)" to read "paragraph (a)(2)(i)";

k. By adding a new (Advisory) Note 6;

l. By adding a new Note and new Notes 1 through 3 immediately following (Advisory) Note 6;

m. By adding new (Advisory) Notes 7 and 8;

n. By adding new Notes 1 and 2 following new (Advisory) Note 8; and

o. By adding a new paragraph designated "Definitions of Terms" at the end of the entry for ECCN 1519A, as follows:

1519A "Telecommunication transmission equipment", measuring and test equipment, as follows, and specially designed components and accessories therefor.

Controls for ECCN 1519A

* * *

Reason for Control: National security.

* * *

List of Equipment Controlled by ECCN 1519A

Note: The status of "telecommunications transmission equipment" using lasers is defined by this ECCN 1519A.

- (a) * * *
- (1) * * *
- (ii) * * *

Note: The maximum of 45 million bit/s for the highest multiplex level does not preclude total digital transfer rates of maximally 90 million bit/s to allow for line coding and overhead for:

- (a) Line terminating equipment;
- (b) Intermediate amplifier equipment;
- (c) Repeater equipment;
- (d) Regenerator equipment;
- (e) Translation encoders (transcoders);

(2) * * *

(3) Employing a laser having a transmission wavelength exceeding 1,000 nm;

Note: * * *

(b) "Telecommunication transmission equipment" employing lasers and having any of the following characteristics:

(1) Employing analog techniques and having a bandwidth that exceeds 45 MHz or having an operating wavelength longer than 1,370 nm;

(2) Employing optical heterodyne or homodyne detection techniques (also called coherent optical transmission techniques); or

(3) Employing wavelength division multiplexing techniques.

* * *

(Advisory) Note 3: Licenses are likely to be approved for export to satisfactory end-users in Country Groups Q, W, and Y of equipment controlled by paragraph (a)(3) of this ECCN 1519A when the wavelength does not exceed 1,370 nm.

* * *

(Advisory) Note 6: Licenses are likely to be approved for export to satisfactory end-users in Czechoslovakia, Hungary, and Poland of the following communication, measuring or test equipment for:

(a) "Telecommunication transmission equipment" provided that it is:

(1) Intended for general commercial traffic in a civil communication system;

(2) Designed for operation at a total digital transfer rate at the highest level multiplex level of 156 million bit/s or less;

(3) Installed under the supervision of the seller in a permanent circuit; and

(4) To be operated by the civilian authorities of the importing country;

(b) Measuring or test equipment necessary for the use (i.e., installation, operation and maintenance) of equipment exported under the conditions of this Note, provided that:

(1) It is designed for use with communication transmission equipment operating at a total digital transfer rate of 156 million bit/s or less; and

(2) It will be supplied in the minimum quantity required for the transmission equipment eligible for export under an Advisory Note.

Note: Where possible, built-in test equipment (BITE) will be provided for installation or maintenance of transmission equipment eligible for administrative exception treatment under this ECCN 1519A rather than individual test equipment.

Notes:

1. The maximum of 156 million bit/s does not preclude total digital transfer rates of maximally 187.2 million bit/s to allow for line coding and overhead for:

- (a) Line terminating equipment;
- (b) Intermediate amplifier equipment;
- (c) Repeater equipment;
- (d) Regenerator equipment; or
- (e) Translation encoders (transcoders).

2. If the equipment employs a laser the transmission wavelength must not exceed, 1,370 nm.

3. A license application to export any commodities covered by (Advisory) Note 6 shall include an end-use statement from the importing government providing the government's assurance that:

(a) The export is intended solely for the stated end-use; and

(b) On-site inspections will be permitted at the request of the exporter or the United States Government.

(Advisory) Note 7: Licenses are likely to be approved for export to satisfactory end-users in Czechoslovakia, Hungary, and Poland of modems controlled by sub-paragraph (a)(2) of this ECCN 1519A. A license application to export any commodities covered by this Note shall include an end-use statement from the importing government providing the government's assurance that the export is intended solely for the stated end-use.

(Advisory) Note 8: Licenses will receive favorable consideration for export to satisfactory end-users in Czechoslovakia, Hungary, and Poland of technical data controlled by this ECCN 1519A and of instrumentation, test equipment and components and "specially designed software" therefore, and materials and components controlled by this ECCN 1519A or other "A" level entries on the Commodity Control List, for modification or production of "telecommunication transmission equipment" or systems, provided that:

Note: Technical data for general purpose computers is not eligible for consideration under (Advisory) Note 5 of this ECCN 1519A; i.e., it is covered under ECCN 1565A(j).

(a) The characteristics of the "telecommunications transmission equipment" or systems are limited to those that make them free from control or eligible for consideration under (Advisory) Note 8 or (Advisory) Note 7;

(b) Modification of the "telecommunications transmission equipment" or systems is not permitted if any aspect of the design would result in exceeding the performance thresholds or features of (Advisory) Note 6 or (Advisory) Note 7;

(c) Testing of large scale integrated (LSI) circuits or those with higher component densities is limited to go/no go tests;

Note: Paragraph (c) of (Advisory) Note 8 does not preclude exports of equipment or technical data that would be possible according to the provisions of other ECCNs.

(d) The "specially designed software" is the minimum necessary "software" to utilize the transferred technical data, instrumentation and test equipment;

(e) All "software" shall be exported in machine executable form only;

(f) Development technical data is not included;

(g) The contract includes explicit conditions to ensure that:

(1) The production technical data or production equipment is not reexported or exported, either directly or indirectly, to another controlled destination;

(2) The supplier or licensor may appoint a representative who is entitled to verify that the production technical data and production equipment or system serve their intended use;

(3) Any modification of the capabilities or functions of the produced equipment must be approved by the supplier or licensor;

(4) The supplier's or licensor's personnel have right of access to all the facilities directly involved in the production of the "telecommunications transmission equipment" or systems;

(5) The production technical data, production equipment and produced equipment or systems will be for civil end-use only;

(h) System integration testing will be performed by the supplier or licensor, if it requires test tools that provide the licensee the capability to recover source code or upgrade the system beyond the performance threshold or features of (Advisory) Note 8 or (Advisory) Note 7 as applicable;

(i) End-use reporting of the installed "telecommunication transmission equipment" or systems will be provided as per (Advisory) Note 6 or (Advisory) Note 7;

(j) Reserved;

Notes:

1. No export under (Advisory) Note 8 shall establish a precedent for export approval under other "A" level entries in the Commodity Control List.

2. A license application to export any commodities covered by (Advisory) Note 8 shall include an end-use statement from the importing government providing the government's assurance that:

(a) The export is intended solely for the stated end-use; and

(b) On-site inspections will be permitted at the request of the exporter or the United States Government.

Definitions of terms:

Bandwidth of one voice channel—

In the case of data communication equipment designed to operate in one voice channel of 3,100 Hz, as defined in CCITT Recommendation G.151;

Data signalling rate—

As defined in ITU Recommendation 53-38, taking into account that, for nonbinary modulation, "baud" and "bit per second" are not equal. Bits for coding, checking and synchronization functions are to be included.

Note: When determining the "data signalling rate," servicing and administrative channels shall be excluded.

Telecommunication transmission equipment—

(a) Categorized as follows, or combinations thereof:

- (1) Line terminating equipment;
- (2) Intermediate amplifier equipment;
- (3) Repeater equipment;
- (4) Regenerator equipment;
- (5) Translation encoders (transcoders);
- (6) Multiplex equipment;
- (7) Modulators/demodulators (modems);
- (8) Transmultiplex equipment (see CCITT Rec. G701); or

(9) Stored program controlled digital crossconnection equipment; and

(b) Designed for use in single or multi-channel communication via:

- (1) Wire (line);
- (2) Coaxial cable;
- (3) Optical fiber cable; or
- (4) Electromagnetic radiation.

Supplement No. 1 to § 799.1 [Amended]

22. In Supplement No. 1 to § 799.1 (the Commodity Control List), ECCN 1520A is amended: a. By revising the heading for the ECCN;

b. By removing the Note immediately following the ECCN heading;

c. By adding a new *Technical Data and Software* paragraph following the *Validated License Required* paragraph;

d. By revising the "List of Equipment Controlled"; and

e. By revising the remainder of the entry as follows:

1520A Radio relay communication equipment, specially designed test equipment and software, and specially designed components and accessories therefor

Controls for ECCN 1520A

* * *

Technical Data and Software: GTDR with written assurance applies to specially designed software and to technical data for development or production of equipment controlled by this ECCN 1520A, as well as technical data described in Notes 1 and 2 following paragraph (a), for export to Country Groups T and V, except the People's Republic of China and Afghanistan. A validated license is required for all other destinations.

List of Equipment Controlled by ECCN 1520A

Note: Associated multiplex equipment is considered separately under the provisions of ECCN 1519A.

(a) Radio relay communication equipment designed for use at frequencies exceeding 960 MHz, *except*

when having any of the following sets of characteristics:

(1) Microwave radio links for fixed civil installations operating at fixed frequencies not exceeding 23.6 GHz, employing analog transmission;

(2) Microwave radio links:

(i) Employing digital transmission techniques;

(ii) Designed for operation at a total digital transfer rate not exceeding 45 Mbit/s;

(iii) Not employing quadrature-amplitude-modulation (QAM) techniques above level 4 if the total digital transfer rate exceeds 8.5 million bit/s; and

(iv) Operating at fixed frequencies not exceeding 23.6 GHz.

Note: The maximum of 45 million bit/s does not preclude total digital transfer rates of maximally 90 million bit/s to allow for line coding and overhead.

(3) Ground communication radio equipment designed for civil use with temporarily fixed services and designed to be used at fixed frequencies not exceeding 23.6 GHz with a power output of not more than 5 W;

(4) They are:

(i) Civil sound or television broadcast receiving stations designed to comply with ITU standards, as described in CCITT or CCIR documents, for satellite reception;

(ii) Specially designed for use at fixed frequencies allocated by the International Telecommunications Union (ITU) for civil television or sound radio satellite broadcasting; and

(iii) Operating at frequencies not exceeding 31 GHz;

(5) The equipment is:

(i) Specially designed for the transmission of television signals; and

(ii) Operating at frequencies not exceeding 23.6 GHz;

(6) The equipment is:

(i) Specially designed to be installed and operated in:

(A) Communication and direct broadcast satellite earth stations for civil communication and direct broadcast;

(B) Telemetry-tracking-and-command earth stations for civil satellites; or

(C) Civil weather or civil meteorological satellite earth stations; and

(ii) Designed for an operating frequency not exceeding 31 GHz;

Notes:

1. Nothing in paragraph (a) of this ECCN 1520A permits the export of technical data for equipment employing quadrature-amplitude-modulation (QAM) techniques, *except* technical data for use, i.e., installation, operation or maintenance.

2. Nothing in paragraph (a) of this ECCN 1520A permits the export of technical data for equipment *excepted* from control by paragraph (a)(6) of this ECCN 1520A, *except* technical data for installation, operation or maintenance.

(b) Tropospheric scatter communication equipment, *except* when having all the following characteristics:

(1) Being designed for fixed civil use;

(2) Operating at fixed frequencies of 2.7 GHz or less;

(3) Using frequency modulation; and

(4) Having a power amplifier output of 10 kW or less;

(c) Stand-alone radio transmission media simulators/channel estimators and "specially designed software" therefor, specially designed for testing equipment controlled by paragraphs (a) and (b) of this ECCN 1520A, *except* those in which the adjustments are only made manually.

Note 1: This ECCN 1520A does not control equipment for civil television transmission or for general commercial traffic, or technical data for the installation, operation and maintenance therefor, provided that the equipment:

(a) Is not designed for operation at a total digital transfer rate exceeding 45 million bit/s;

(b) Does not employ quadrature-amplitude-modulation (QAM) techniques; and

(c) Has a maximum operating frequency that does not exceed 23.6 GHz.

Note 2: This ECCN does not control analog microwave transmission equipment for civil industrial use, e.g., remote supervision, control and metering of oil and gas pipelines, civil public utility services (e.g., electricity networks) including telephone channels for the operation of such networks and the engineering service circuits required for the maintenance of telecommunication links, or technical data for the installation, maintenance and operation therefor, provided that the maximum operating frequency does not exceed 23.6 GHz.

(Advisory) Note 3 for the People's Republic of China: Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of the following radio relay communication equipment:

(a) Digital microwave radio links for fixed civil installations operating at fixed frequencies not exceeding 19.7 GHz with a capacity of up to 1,920 voice channels of 3.1 kHz or four television channels of 6 MHz maximum nominal bandwidth and associated sound channels;

(b) Ground communication radio equipment for use with temporarily fixed services operated by the civilian authorities and designed to be used at fixed frequencies not exceeding 20 GHz;

(c) Radio transmission media simulators/channel estimators designed for the testing of equipment covered by paragraph (a) or (b) of this Note;

(d) Power amplifiers not exceeding 10 W and 8/4-GHz transmitters/receivers for communication satellites;

(e) Equipment specially designed to receive civil meteorological data provided that:

(1) The equipment or systems are designed and used for fixed civil meteorological applications;

(2) The equipment has all the following characteristics:

(i) It is specially designed to receive and process Weather Facsimile (WEFAX) or receive and process meteorological data from civil weather satellites such as:

(A) GOES (Geostationary Operating Environmental Satellite);

(B) NOAA (National Oceanic and Atmospheric Administration) polar orbiting satellites; or

(C) The ARGOS meteorological satellite;

(ii) "Frequency agility" techniques are not incorporated; and

(iii) The weather satellite ground system frequencies do not exceed 1,750 MHz.

(Advisory) Note 4: Licenses are likely to be approved for export to satisfactory end-users in Czechoslovakia, Hungary, and Poland of digital radio relay communications equipment, provided that:

(a) It is for fixed civil installations;

(b) It operates at fixed frequencies not exceeding 23.8 GHz;

(c) It is designed for operation at a total bit rate not exceeding 156 million bit/s; and

(d) It does not employ quadrature amplitude modulation techniques above 64 QAM.

Notes:

1. The maximum of 156 million bit/s does not preclude total digital transfer rates of maximally 187.2 million bit/s to allow for line coding and overhead.

2. A license application to export any commodities covered by (Advisory) Note 4 shall include an end-use statement from the importing government providing the government's assurance that:

(a) The export is intended solely for the stated end-use; and

(b) On-site inspections will be permitted at the request of the exporter or the United States Government.

(Advisory) Note 5: Licenses will receive favorable consideration for export to satisfactory end-users in Czechoslovakia, Hungary, and Poland of technical data controlled by this ECCN 1520A and of instrumentation, test equipment, and components and "specially designed software" therefor, and materials and components controlled by this ECCN 1520A or other entries on the Commodity Control List, for modification or production of equipment or systems, provided that:

Note: Technical data for general purpose computers is not eligible for consideration under (Advisory) Note 5; i.e., it continues to be controlled under ECCN 1585A.

(a) The characteristics of the equipment or systems are limited to those that make them free from control or eligible for consideration under (Advisory) Note 4;

(b) Modification of the equipment or systems is not permitted if any aspect of the design would result in exceeding the performance thresholds or features of (Advisory) Note 4;

(c) Testing of large scale integrated (LSI) circuits or those with higher components densities is limited to go/no go tests;

Note: Paragraph (c) of (Advisory) Note 5 does not preclude exports of equipment or technical data that would be possible according to the provisions of other ECCNs.

(d) The "specially designed software" is the minimum necessary "software" to utilize the transferred technical data, instrumentation and test equipment;

(e) All "software" shall be exported in machine-executable form only;

(f) Development technical data is not included;

(g) The contract includes explicit conditions to ensure that:

(1) The production technical data or production equipment is not reexported or exported, either directly or indirectly, to another controlled destination;

(2) The supplier or licensor may appoint a representative who is entitled to verify that the production technical data and production equipment or system serve their intended use;

(3) Any modification of the capabilities or functions of the produced equipment must be approved by the supplier or licensor;

(4) The supplier's or licensor's personnel have right of access to all the facilities directly involved in the production of the equipment or systems;

(5) The production technical data, production equipment and produced equipment or systems will be for civil end-use only;

(h) System integration testing will be performed by the supplier or licensor, if it requires test tools that provide the licensee the capability to recovery source code or upgrade the system beyond the performance threshold or features of (Advisory) Note 4 as applicable;

(i) End-use reporting of the installed radio relay communications equipment or systems will be provided as per (Advisory) Note 4;

Notes:

1. No export under (Advisory) Note 5 shall establish a precedent for export approval under other entities in the Commodity Control List.

2. A license application to export any commodities covered by (Advisory) Note 5 shall include an end-use statement from the importing government providing the government's assurance that:

(a) The export is intended solely for the stated end-use; and

(b) On-site inspections will be permitted at the request of the exporter or the United States Government.

23. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1526A is amended:

a. By revising the heading of the ECCN;

b. By removing paragraphs (a)(1) and (a)(2) in the List of Commodities;

c. By revising the introductory text of paragraph (b) and adding a new Technical Note immediately preceding paragraph (b)(1);

d. By removing the Technical Note that follows paragraph (b)(3);

e. By removing the Technical Note that follows paragraph (c)(2)(ii);

f. By removing Note 3;

g. By redesignating (Advisory) Note 4 as new (Advisory) Note 3;

h. By redesignating (Advisory) Note 5 for the People's Republic of China as new (Advisory) Note 4 for the People's Republic of China;

i. By revising in newly designated (Advisory) Note 4 for the People's Republic of China the phrase "subparagraph (d)(2)" to read "paragraph (c)(2) of this ECCN 1526A"; and

j. By adding a new paragraph designated "Definition of terms" at the end of the entry for ECCN 1526A, as follows:

1526A Cable and optical fibers, and components and accessories

• • • • •

List of Commodities Controlled by ECCN 1526A

• • • • •

(b) Optical-fiber communication cable or optical fibers therefor (except pigtails that are not nuclear radiation hardened), having any of the following characteristics:

Technical Note: "Pigtails" are pieces of optical fiber or cable no longer than 50 m that in some cases are attached to components or instruments.

• • • • •

Definitions of Terms

Beat length

Beat length is defined as the distance over which two orthogonally polarized signals, initially in phase, must pass in order to achieve 2 pi radian(s) phase difference.

Proof test

"Proof test" consists of on-line or off-line production screen testing that dynamically applies as prescribed tensile stress over a 0.5 to 3 m length of fiber at a running rate of 2 to 5m/sec. while passing between capstans approximately 15 cm in diameter. The ambient temperature is a nominal 20 °C and relative humidity a nominal 40%.

Supplement No. 1 to § 799.1 [Amended]

24. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1527A is amended by revising the parenthetical phrase in Note 1 to read "[e.g., conversion of an analog, i.e., video or facsimile, signal into a digital signal]".

Supplement No. 1 to § 799.1 [Amended]

25. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1529A is amended:

- a. By removing paragraphs 1. and 2. that follow the *Special Licenses Available* paragraph;
- b. By revising in the List of Equipment, paragraph (c) introductory text;
- c. By revising paragraph (d) introductory text;
- d. By revising paragraph (f) including the Note immediately following paragraph (f)(1);
- e. By revising paragraphs (g) and (h) and adding a new Note immediately following paragraph (h);
- f. By removing paragraph (i) and the Note immediately following paragraph (i) and redesignating paragraphs (j) and (k) as new paragraphs (i) and (j), respectively;
- g. By revising Notes 1 and 2 that follow newly designated paragraph (j);
- h. By revising in Notes 3 and 4 that follow newly designated paragraph (j) the reference "paragraph (k)" to read "paragraph (j)" both places it appears;
- i. By removing Technical Notes 3 and 4 and redesignating Technical Notes 5 and 6 as new Technical Notes 3 and 4; and
- j. By removing (Advisory) Note 2 for the People's Republic of China, as follows:

1529A Electronic equipment for testing, measuring or for microprocessor/microcomputer development, as follows

* * *

List of Equipment Controlled by ECCN 1529A

* * *

(c) Cesium frequency standards having both of the following characteristics:

* * *

(d) Equipment containing cesium frequency standards having any of the following characteristics:

* * *

(f) Specially calibrated microwave instrumentation receivers capable of measuring amplitude and phase simultaneously and designed for use at frequencies exceeding 1 GHz;

Note: This paragraph (f) includes receivers used in equipment for the near- and far-zone measurement of phase and amplitude patterns of antennae.

(g) Digital counters having any of the following characteristics:

(1) Capable of performing frequency measurements above 20 GHz;

(2) Capable of measuring either the frequency or the change in phase of frequency within a pulse ("Pulse

frequency profiling") using either internally or externally gated sampling intervals of 100 ns or less; or

(3) Capable of measuring "burst frequencies" exceeding 250 MHz for a burst duration of less than 2 ms.

(h) Digital voltage measuring equipment capable of more than 1,000 readings per second with a resolution of more than 4½ digits, not including changes in range or polarity;

Note: This paragraph (h) does not control:

(a) Visual quantization apparatus capable of providing an average value, displayed or not, of the results of the measurement;

(b) Multichannel analyzers of all types used in nuclear experimentation; or

(c) Industrial telemeasuring devices in which a pre-set storage value is used as a basis for measuring.

* * *

Note 1: This paragraph (j) includes accessories specially designed for these microprocessor or microcomputer development instruments or systems such as:

(a) "Cross-hosted" assemblers, "cross-hosted" compilers;

(b) Adapter interfaces for prototypes and/or emulation probes;

(c) Debuggers;

(d) So-called personality modules that contain more than one of the accessories enumerated under paragraphs (a) to (c) of this ECCN 1529A.

Note 2: This paragraph (j) does not control microprocessor or microcomputer development instruments or systems having all of the following characteristics:

(a) They can be used to develop "software" for, or to program a "family" of microprocessor or microcomputer microcircuits not designed within a controlled country.

(b) They can be used only for microprocessor or microcomputer microcircuits having both:

(1) An operand (data) word length of no more than 16 bits; and

(2) An arithmetic logic unit (ALU) not wider than 32 bits; and

(c) The "family" contains at least one microprocessor or microcomputer microcircuit that is not controlled by ECCN 1564A.

* * *

Supplement No. 1 to § 799.1 [Amended]

26. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), a new ECCN 4529B is added to follow ECCN 1529A, as follows:

4529B Electronic equipment for testing, measuring or for microprocessor/microcomputer development.

Note: For "specially designed software", see Supp. No. 3 to Part 779.

Controls for ECCN 4529B

Unit: Report in "number," parts and accessories in "\$ value."

Validated License Required: Country Groups QSTVWYZ.

GLV \$ Value Limit: \$0 for all destinations.

Processing Code: EE.

Reason for Control: Foreign policy. Foreign policy controls apply for nuclear weapons delivery purposes to commodities described in paragraphs (a) or (b) under the List below for launch and ground support equipment usable for complete rocket systems and unmanned air vehicle systems described in § 776.18(a).

Special Licenses Available: No special licenses are available for commodities under foreign policy controls for nuclear weapons delivery purposes (§ 776.18(c)). See Part 773 for special licenses available for commodities defined in ECCN 1529A.

Technical Data: Exports of certain related technical data require a validated license to all destinations (see § 779.4(d)(20)).

List of Equipment Controlled by ECCN 4529B

(a) Frequency standards having both of the following characteristics:

(1) Designed as reference standards for laboratory use; and

(2) Either of the following:

(i) A long-term drift (aging) over a period of 24 hours or more of 1 part in 10^{10} or less; or

(ii) A short-term drift (instability) over a period from 1 to 100 seconds of 1 part in 10^{12} or less;

(b) Equipment containing frequency standards, having any of the following characteristics:

(1) Designed for mobile use and having a long-term drift (aging) over a period of 24 hours or more of 5 parts in 10^9 or less;

(2) Designed for fixed ground use and having a long-term drift (aging) over a period of 24 hours or more of 5 parts in 10^{10} or less; or

(3) A short-term drift (instability) over a period from 1 to 100 seconds of 1 part in 10^{12} or less;

Supplement No. 1 to § 799.1 [Amended]

27. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1531A is amended:

a. By revising the heading;

b. By revising in the *Commodities Not Eligible for GCT* paragraph and in the *Reason for Control* paragraph the reference "paragraphs (a) and (c) through (e)" to read "paragraphs (a), (c), and (d)";

c. By revising paragraph (a) in the List of Frequency Synthesizers; by revising paragraphs (b)(3) and (b)(4);

d. By revising paragraph (d);

e. By removing Notes 1 and 2 that follow paragraph (d);

f. By removing paragraph (e) and the Note that precedes paragraph (e)(4);

g. By removing the Note that follows paragraph (e)(6);

h. By removing Advisory Note 2;

i. By redesignating (Advisory) Note 3 for the People's Republic of China as new (Advisory) Note 2 for the People's Republic of China; and

j. By revising in paragraph (d)(2) of newly designated (Advisory) Note 2 for the People's Republic of China the phrase "paragraph (e)(3)(ii)" to read "paragraph (d)(1)(ii)";

k. By removing paragraph (e) in newly designated (Advisory) Note 2 for the People's Republic of China, as follows:

1531A "Frequency synthesizers", and equipment containing such "frequency synthesizers".

List of Frequency Synthesizers Controlled by ECCN 1531A

(a) "Frequency synthesizers" containing frequency standards covered by ECCN 1529A(c);

(b) "Electrically programmable in frequency" with a "frequency switching time" of less than 5 ms;

(c) "Electrically programmable in phase" with a switching time from one selected phase value to another of less than 10 ms, *except* equipment incorporating pre-emphasis networks for frequency modulation;

(d) Radio transmitters incorporating transmitter drive units, exciters and master oscillators using frequency synthesis, as follows; specially designed components and accessories therefor:

(1) Having an output frequency of more than 550 MHz, *except*:

(i) Television broadcasting transmitters having all of the following characteristics:

(A) An output frequency not exceeding 960 MHz;

(B) A frequency resolution of not better (less) than 1 kHz; and

(C) The manually-operated "frequency synthesizer" incorporated in or driving the transmitter has an output frequency not exceeding 120 MHz;

(ii) Ground communication equipment designed for civil use in the land mobile or marine service, e.g., cellular radio-communication systems, amateur radio

or portable radiophone, having all of the following characteristics:

Notes:

1. For equipment containing cryptographic equipment of "software", see ECCN 1527A.

2. Nothing in paragraph (d) of this ECCN 1531A permits the export of technical data for the development or production of digital equipment or "specially designed software" for use in digital civil land mobile networks.

(A) Operating frequency not more than 1.3 GHz;

(B) A power output of 50 W or less for mobile units, or 300 W or less for fixed units;

(C) For cellular radio base stations, use of analog radio transmission only;

(D) A transmitter "frequency switching time" of 4.5 ms or more;

(E) A frequency resolution of not better than 2.5 kHz; and

(F) No features controlled by ECCN 1517A(c);

(2) Having more than three different selected synthesized output frequencies available simultaneously from one or more outputs;

(3) With facilities for pulse modulation of the output frequency of the transmitter or of the incorporated "frequency synthesizer";

(4) "Frequency synthesizers" designed for equipment described in this paragraph (d), whether supplied separately or with the said equipment, exceeding the parameters specified in paragraph (b) of this ECCN 1531A, *except* those specially designed for radio telephones freed from control under paragraph (d)(1)(ii) of this ECCN 1531A.

Supplement No. 1 to § 799.1 [Amended]

28. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), a new ECCN 4531B is added to follow ECCN 1531A, as follows:

4531B Radio transmitters and specially designed components and accessories therefor.

Controls for ECCN 4531B

Unit: Report equipment in "number"; parts and accessories in "\$ value".

Validated License Required: Country Groups QSTVWYZ.

GLV \$ Value Limit: \$5,000 for Country Groups T & V, except \$0 for the People's Republic of China; \$0 for all other destinations.

Processing Code: EE.

Reason for Control: Foreign policy. Foreign policy controls apply to nuclear weapons delivery non-proliferation controls on commodities described in

this ECCN 4531B as follows: 1. Avionics equipment usable in complete rocket systems and unmanned air vehicle systems described in § 776.18(a); 2. Vibration test equipment (ECCN 1362A) and wind tunnels (ECCN 1361A); and 3. Launch and ground support equipment usable for the systems described in § 776.18(a).

Special Licenses Available: None.

Technical Data: Exports of certain related technical data require a validated license to all destinations except Canada (see § 779.4(d)(20)).

List of Radio Transmitters Controlled by ECCN 4531B

(a) Digitally-controlled radio receivers, whether or not computer-controlled, that search or scan automatically a part of the electromagnetic spectrum, using frequency synthesizers, as follows:

(1) Digitally-controlled receivers in which the switching operation takes less than 10 milliseconds, *except* non-ruggedized digitally-controlled preset type radio receivers designed for use in civil communications that have "00 selective channels or fewer;

(2) "Frequency synthesizers" designed for the above equipment, whether supplied separately or with the said equipment, exceeding the parameters specified in sub-paragraph (b) of ECCN 1531A, *except* those specially designed for receivers freed from control under paragraph (a)(1) of this ECCN 4531B.

Note: This paragraph (a) does not control "frequency synthesizers" specially designed for use in tuners for entertainment type receivers.

(b) Radio transmitters *not controlled under paragraph (d) of ECCN 1531A* that incorporate transmitter drive units, exciters and master oscillators using frequency synthesis, as follows:

(1) Having an output frequency of up to 32 MHz with a frequency resolution of better (less) than 10 Hz and with a "frequency switching time" of less than 10 milliseconds;

(2) Having an output frequency from 32 MHz to 235 MHz with a frequency resolution of better (less) than 250 Hz and with a "frequency switching time" of less than 10 milliseconds;

(3) Having an output frequency of more than 235 MHz, *except*:

(i) Television broadcasting transmitters having an output frequency from 470 MHz to 960 MHz with a frequency resolution of not better (less) than 1 kHz and where the manually-operated "frequency synthesizer" incorporated in or driving the transmitter has an output frequency not greater than 120 MHz;

(ii) FM and AM ground communication equipment for use in the land mobile service and operating in the 403 to 470 MHz band, with a power output of 50 W or less for mobile units and 300 W or less for fixed units, with a frequency resolution of not better (less) than 8.25 kHz and with a "frequency switching time" of more than 50 milliseconds;

(iii) Portable (personal) or mobile radiotelephones for civil use, e.g., for use with commercial civil cellular radio-communications systems having all of the following characteristics:

(A) Operating in the 403 to 960 MHz range;

(B) A power output of 25 W or less; and

(C) A "frequency switching time" of 10 ms or more.

Note: For stored program controlled communications switching equipment used with cellular radio base stations, see ECCN 1567A.

(4) Having more than three different selected synthesized output frequencies available simultaneously from one or more outputs;

(5) With facilities for pulse modulation of the output frequency of the transmitter or of the incorporated "frequency synthesizer";

(6) "Frequency synthesizers" designed for equipment described in this paragraph (a), whether supplied separately or with the said equipment, exceeding the parameters specified in paragraph (b) of ECCN 1531A; except those specially designed for radio telephones freed from control under paragraph (b)(3)(iii) of this ECCN 4531B.

(c) Specially designed components and accessories for digitally-controlled radio receivers or radio transmitters described in paragraph (a) or (b) of this ECCN 4531B.

Supplement No. 1 to § 799.1 [Amended]

29. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1533A is amended:

a. By revising the *Special Licenses Available* paragraph;

b. By removing the *GFW Eligibility* paragraph;

c. By removing Note 2 that precedes (Advisory) Note 3 and redesignating (Advisory) Note 3 as new (Advisory) Note 2;

d. By adding a new (Advisory) Note 3 for the People's Republic of China; and

e. By removing the bracketed sentence at the end of the entry, as follows:

1533A "Signal analyzers" (including spectrum analyzers) and network analyzers, as follows, and specially designed components and accessories therefor.

* * * * *

Controls for ECCN 1533A

* * * * *

Special Licenses Available: See part 773.

List of Equipment Controlled by ECCN 1533A

* * * * *

(Advisory) Note 3 for the People's Republic of China: Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of swept frequency network analyzers or sweep generators for use at frequencies not exceeding 40 GHz and that cannot be controlled remotely.

Supplement No. 1 to § 799.1 [Amended]

30. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1537A is amended:

a. By revising the heading of the ECCN;

b. By revising the "List of Equipment Controlled by ECCN 1537A";

c. By removing the Note immediately preceding (Advisory) Note 1;

d. By removing (Advisory) Note 1 and adding a new Note 1;

e. By removing Notes 2 and 3;

f. By redesignating (Advisory) Note 4 for the People's Republic of China as (Advisory) Note 2 for the People's Republic of China; and

g. By removing and reserving paragraph (b) in newly designated (Advisory) Note 2 for the People's Republic of China.

1537A Microwave, including millimetric wave, equipment capable of operating at frequencies over 10.5 GHz.

* * * * *

List of Equipment Controlled by ECCN 1537A

Note: For microwave equipment specially designed for equipment described by ECCNs 1501A, 1517A, 1520A, or 1529A, see these ECCNs.

(a) Rigid and flexible waveguides designed for use at frequencies in excess of 26.5 GHz;

(b) Waveguides having a bandwidth ratio above 1.7 : 1;

(c) Directional couplers having a bandwidth ratio above 1.7 : 1 and directivity over the band of 20 dB or more;

(d) Phased array antennae and sub-assemblies, designed to permit electronic control of beam shaping and pointing (see Supp. No. 2 to part 770 of the Export Administration Regulations),

and specially designed components therefor, including duplexers, phase shifters and associated high speed diode switches;

(e) Other antennae specially designed for operation at frequencies above 30 GHz having a diameter of less than 1 m, and specially designed components therefor;

(f) Microwave assemblies and sub-assemblies capable of being used at frequencies above 23.6 GHz and having circuits fabricated by the same processes used in integrated circuit technology, which include active circuit elements;

(g) Microwave assemblies and sub-assemblies that contain band-pass or band-stop filters and are capable of operating at 23.6 GHz or more;

(h) Amplifiers having an instantaneous bandwidth of more than half an octave (i.e., the highest operating frequency is more than 1.5 times the lowest operating frequency).

Note: Paragraph (h) does not control parametric or paramagnetic amplifiers having any of the following characteristics:

(a) Specially designed for medical applications;

(b) Specially designed for use in "simple educational devices" and operate at industrial, scientific or medical (ISM) frequencies; or

(c) An output power of not more than 10 W and specially designed for:

(1) Industrial or civilian intrusion detection and alarm systems;

(2) Traffic or industrial movement control and counting systems;

(3) Systems for the detection of environmental pollution of air or water; or

(4) "Simple education devices";

Technical Note: "Simple education devices" are devices designed for use in teaching basic scientific principles and demonstrating the operation of those principles in educational institutions.

Note 1: Paragraph (d) of this ECCN 1537A does not control duplexers and phase shifters specially designed for use in civil television systems or in other civil radar or communication systems not controlled elsewhere in the Commodity Control List.

* * * * *

Supplement No. 1 to § 799.1 [Amended]

31. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1541A is amended:

a. By revising the ECCN heading;

b. By revising the heading "Controls for ECCN 1541A";

c. By revising the *Validated License Required* paragraph;

d. By revising the *GLV \$ Value Limit* paragraph;

e. By revising the *Reason for Control* paragraph;

f. By revising ECCN "1541A" to read "5541F" in the heading "List of Cathode Ray Tubes Controlled;

g. By removing paragraph (a) and redesignating paragraphs (b) and (c) as new paragraphs (a) and (b), respectively;

h. By revising the phrase "paragraph (c)" in the Note to read "paragraph (b)" as follows:

5541F Cathode-ray tubes.

Controls for ECCN 5541F

* * * * *

Validated License Required: Country Groups S and Z, Taiwan, and countries listed in Supplement No. 4 to Part 778.

GLV & Value Limit: \$0 for Country Groups S and Z; \$3,000 for all other destinations.

* * * * *

Reason for Control: Nuclear nonproliferation.

* * * * *

Supplement No. 1 § 799.1 [Amended]

32. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1542A is removed and a new ECCN 5542F is added to follow ECCN 5541F, as follows:

5542F Triggered spark-gap switches; specially designed parts therefor, and equipment incorporating such devices.

Controls for ECCN 5542F

Unit: Report tubes in "number"; parts and accessories in "\$ value."

Validated License Required: Country Groups S and Z, Taiwan, and countries listed in Supplement No. 4 to Part 778.

GLV & Value Limit: \$0 for all destinations.

Processing Code: EE.

Reason for Control: Nuclear nonproliferation.

Special Licenses Available: None.

List of Items Controlled by ECCN 5542F

(a) Triggered spark-gaps, having an anode delay time of 15 microseconds or less and rated for a peak current of 3,000 A or more;

(b) specially designed parts for triggered spark-gaps described in paragraph (a) of this ECCN 5542F;

(c) Equipment incorporating triggered spark-gaps described in paragraph (a) of this ECCN 5542F.

Note: Triggered spark-gaps are tubes with a structure consisting of two opposed anodes with shapes resembling flattened hemispheres, and with one or more triggering probes placed approximately in the center of one anode. The structure is sealed and contains a mixture of gases, principally nitrogen, under less than atmospheric pressure.

Supplement No. 1 § 799.1 [Amended]

33. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), a new ECCN 5559F is added immediately following ECCN 1558A to read as follows:

5559F Hydrogen/hydrogen isotope thyratrons of ceramic-metal construction, and accessories therefor.

(Specify by name and type number.)

Controls for ECCN 5559F

Unit: Report tubes and semi-conductor devices in "number"; parts and accessories in "\$ value."

Validated License Required: Country Groups S and Z, Taiwan, and countries listed in Supplement No. 4 to Part 778.

GLV & Value Limit: \$0 for Country Groups S and Z; \$3,000 for all other destinations.

Processing Code: EE.

Reason for Control: Nuclear nonproliferation.

Special Licenses Available: See Part 773.

List of Equipment Controlled by ECCN 1559A

Hydrogen/hydrogen isotope thyratrons of ceramic-metal construction having any of the characteristics, and accessories therefor:

(a) A peak pulse power output exceeding 20 MW;

(b) A peak anode voltage greater than 25 kV;

(c) A peak current rating greater than 1.5 kA.

Note: For thyratrons rated for both single-shot (crowbar) and modulator service, the figure for modulator service should be used.

Supplement No. 1 to § 799.1 [Amended]

34. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1565A is amended:

a. By revising the heading of the ECCN;

b. By removing the phrase "and certain disk drives" in the *Validated License Required* paragraph;

c. By removing the *Disk Drives* paragraph following the *Validated License Required* paragraph;

d. By adding a *Technical Data and Software* paragraph immediately preceding the *GLV & Value Limit* paragraph;

e. By revising Technical Note 2 that precedes the "List of Controlled Equipment";

f. By revising the parenthetical sentence that follows Technical Note 2;

g. By adding a new paragraph (c)(2)(iii)(B) in the List of Electronic Computers;

h. By revising paragraph (h) introductory text;

i. By removing the Note that follows paragraph (h) introductory text and adding new Notes 1 and 2;

j. By revising in paragraph (h)(1)(i)(F)(2) the phrase "ECCN 1501, 1502, 1510, or 1518" to read "ECCN 1501A, 1502A, or 1510A";

k. By removing and reserving paragraph (h)(1)(i)(G) and removing the Note that follows;

l. By removing and reserving paragraphs (h)(1)(i)(K) and (h)(1)(i)(L);

m. By revising paragraph (h)(1)(ii);

n. By removing and reserving paragraphs (h)(2)(i) and (h)(2)(ii);

o. By revising in the introductory text of paragraph (h)(2)(iii) the phrase "paragraph (h)(1)" to read "paragraphs (h)(1)(i)(D) to (h)(1)(i)(M)";

p. By revising the figure "6.5 million bit/s" in paragraph (h)(2)(iii)(D) to read "275 million bit/s";

q. By revising paragraph (h)(2)(iii)(E);

r. By revising paragraph (h)(2)(iii)(F) and removing the Note that follows;

s. By revising paragraphs (h)(2)(iii)(G) and (h)(2)(iii)(H) and removing the Note that follows paragraph (h)(2)(iii)(H);

t. By adding a new paragraph (h)(2)(iii)(I), formerly reserved;

u. By removing paragraphs (h)(2)(iii)(J) and (h)(2)(iii)(K);

v. By revising paragraphs (h)(2)(iv), (h)(2)(v), and (h)(2)(vi);

w. By removing paragraph (h)(2)(vii);

x. By adding a new paragraph (j);

y. By removing and reserving Advisory Notes 5 and 7;

z. By revising Advisory Notes 9 and 12;

aa. By adding new Advisory Note 15 (formerly reserved);

bb. By adding a new heading "Definitions of Terms" to follow Advisory Note 17 and moving the text of existing Note 16 to follow the new heading;

cc. By adding in the "Definitions of Terms" a new Note immediately following the definition of the term "Main storage";

dd. By revising in the new "Definitions of Terms" the term "Principal Element" and Part A of the Note that follows the definition of the term "Total Connected Capacity";

ee. By revising in the new "Definitions of Terms" Note 2 that follows the term "Execution Time" in the definition of the term "Total Processing Data Rate";

ff. By removing the heading "Note 16" and adding a new Advisory Note 16;

gg. By revising paragraph (b)(1) in Advisory Note 17 (for the People's Republic of China); and

hh. By removing and reserving Advisory Notes 18 to 21, as follows:

1565A Electronic computers, "related equipment", equipment or systems containing electronic computers, and technical data therefor; and specially designed components for these electronic computers and "related equipment".

Controls for ECCN 1565A

Validated License Required: * * *
Technical Data and Software:
 Technical data related to items controlled by this ECCN is described in paragraph (j). GTDR with written assurance is available for Country Groups T and V, except the People's Republic of China and Afghanistan. A validated license is required for all other destinations. Software related to equipment in this ECCN 1565A is controlled by Supplement No. 3 to Part 779.

Technical Notes: 1. * * *
 2. This ECCN 1565A includes:
 (a) "Assemblies", "modules" or printed circuit boards with mounted components referred to this ECCN 1565A by ECCN 1564A;
 (b) Central processing unit—"main storage" combinations;
 (c) Processors for stored program control.
 (For a complete list of definitions of terms used in this ECCN 1565A, see the "Definitions of Terms" section at the end of the entry.)

List of Electronic Computers and Related Equipment Controlled by ECCN 1565A

(c) * * *
 (2) * * *
 (iii) * * *
 (A) * * *
 (B) Total at 1 kHz: 0.25%;

(h) "Digital computers" and "related equipment" therefor, other than those controlled by paragraphs (e) or (f), even when contained in or "associated" with equipment or systems:

Notes: 1. The control status of these "digital computers" or "related equipment" is governed by the appropriate ECCN, provided that:

(a) The "digital computers" or the "related equipment" are essential for the operation of the other equipment or systems;

(b) The "digital computers" or the "related equipment" are not a "principal element" of the other equipment or systems; and

(c) The technical data for the "digital computers" and "related equipment" is governed by paragraph (j) of this ECCN 1565A;

2. "Digital computers" or "related equipment" are not controlled by this ECCN 1565A, provided that:

(a) They are essential for medical applications;

(b) The equipment is substantially restricted to medical applications by the nature of its design and performance;

(c) The equipment does not have "user-accessible programmability" other than that allowing for insertion of the original or modified "programs" supplied by the original manufacturer;

(d) The equipment for "signal processing", "image enhancement" or "multi-data-stream processing";

(1) Is essential for the medical application; and

(2) Is designed or modified for the identifiable and dedicated medical application.

(e) Any "digital computer" that is not designed or modified but essential for the medical application does not exceed a "total processing data rate" of 550 million bit per second; and

(f) The technical data for the "digital computers" or "related equipment" is governed by paragraph (j) of this ECCN 1565A.

(1) * * *
 (ii) "Related equipment", as follows:

Note: "Related equipment" not described in this paragraph (h)(1)(ii) or in paragraph (h)(1)(i) is not controlled by this ECCN 1565A.

(A) Disk drives for rigid magnetic media (hard disks) or non-rigid media (floppy disks), including cartridge type magnetic disk media, exceeding any of the following limits:

(1) A "gross capacity" of 165 MByte;

(2) "Maximum bit transfer rate":
 (i) For disk drives for rigid magnetic media (hard disks)—10.3 million bit/s;
 (ii) For disk drives for non-rigid media (floppy disks) or cartridge type magnetic disk drives—16 million bit/s;

(3) An access rate of 56 accesses per second;

(B) Disk drives for optical media (write-once-read multiple-times (WORM) disks) exceeding any of the following limits:

(1) A "net capacity" of 3.2 GByte;

(2) "Maximum bit transfer rate" of 8 million bit/s;

(3) An access rate of 15 accesses per second;

(C) Disk drives for erasable optical or magneto-optical media;

(D) Solid state storage equipment other than "main storage" (also known as solid state disks or RAM disks) exceeding a "net capacity" of 2 MByte;

(E) Input/output control units with any of the following characteristics:

(1) Designed for use with equipment controlled by sub-paragraph (h)(1)(ii)(A), (h)(1)(ii)(B), (h)(1)(ii)(C), or (h)(1)(ii)(D) above;

(2) Having more than one independent read/write channel;

(3) Having "user-accessible programmability" or "user-accessible microprogrammability";

(4) Having a transfer rate exceeding 16 million bit/s;

Note: Assuming a configuration of disk drives that would maximize the transfer rate.

(F) Magnetic tape drives exceeding either of the following limits:

(1) A "maximum bit packing density" of 246 bit/mm; or

(2) A "maximum bit transfer rate" of 10 million bit/s;

(G) Streamer tape drives with a "maximum bit transfer rate" exceeding 16 million bit/s;

(H) Input/output control units with any of the following characteristics:

(1) Designed for use with tape drives controlled by sub-paragraphs (h)(1)(ii)(F) or (h)(1)(ii)(G) above;

(2) Having more than two independent read/write channels;

(3) Having "user-accessible programmability" or "user-accessible microprogrammability";

(4) Having a transfer rate exceeding 16 million bit/s;

Note: Assuming a configuration of tape drives that would maximize the transfer rate.

(I) Communication control units—directly connected data channel combinations exceeding a "total transfer rate" of 3.6 million bit/s;

(J) Communication control unit—"communication channel" combinations having a maximum "data signalling rate" of any "communication channel" exceeding 9,600 bit/s;

(K) Displays or monitors having more than 1,280 resolvable elements in one dimension and 1,024 resolvable elements in the perpendicular dimension with a maximum of 256 colors or shades of gray;

Notes: 1. This paragraph (h)(1)(ii)(K) does not control displays or monitors not specially designed for electronic computers.

2. This paragraph (h)(1)(ii)(K) does not control monochrome displays for systems specially designed for and limited to graphic arts, desktop publishing, document image publishing (e.g., printing, publishing) that have displays not exceeding 1,600 resolvable elements in one dimension and 1,200 resolvable elements in the perpendicular dimension.

3. The color or shades of gray limits in paragraph (h)(1)(ii)(K) do not apply in the case of direct driven video monitors.

(L) Graphic accelerators or graphic coprocessors;

(2) * * *
 (iii) * * *

(E) "Total connected net capacity" of "main storage" not exceeding 32 MByte;

(F) Not including a microprocessor or microcomputer microcircuit with an external data bus width of more than 32 bit or an arithmetic logic unit with an access width of more than 32 bit;

(G) Not including controlled "related equipment" other than input/output control unit-magnetic disk drive (hard disk) combinations having:

(1) A total connected "net capacity" not exceeding 2 GByte;

(2) A "maximum bit transfer rate" of any disk drive not exceeding 20.6 million bit/s; and

(3) No more than five independent disk drives exceeding a "maximum bit transfer rate" of 16 million bit/s;

(H) Not having both of the following characteristics:

Note: This does not apply to workstations designed for and limited to graphic arts (e.g., printing, publishing).

(1) They are stand-alone graphics work stations designed or modified for the generation, transformation and display of two- or three-dimensional vectors; and

(2) They exceed either of the following limits:

(i) "Block move data rate"—3 million pixels per second; or

(ii) Maximum bit transfer rate of the channel for direct access to the "main storage" (Direct Memory Access (DMA) channel)—15 million bit/s; and

(I) Not including equipment controlled by ECCN 1519A(a)(2) or by ECCN 1567A;

(iv) Graphic accelerators or graphic coprocessors with a "block move data rate" not exceeding 3 million pixels per second;

(v) Equipment for "signal processing" or "image enhancement" or both with an "equivalent multiply rate" not exceeding 6.5 million operations per second;

(vi) Equipment for "local area networks" that do not exceed a "data signalling rate" of 20 million bit/s and that have no "internetwork gateways".

Notes: 1. This paragraph (h)(2)(vi) does not control equipment specially designed for connecting "local area networks" within a "computer using facility".

2. For the controlled status of "software" for "local area networks", see paragraph (a)(3)(ii) in Supplement No. 3 to Part 779.

(i) [Reserved]

(j) Technical Data, as follows:

(1) Technical data applicable to the:

(i) Development, production or use (i.e., installation, operation and maintenance) of electronic computers or "related equipment", even if these electronic computers or "related

equipment" are not controlled by this entry; *except:*

(A) Technical data that is unique to "related equipment" not otherwise controlled by any entry on the Commodity Control List identified by the code letter "A";

(B) The minimum technical information necessary for the use of electronic computers or "related equipment" free from control or authorized for export when shipped together with or solely for use with these electronic computers or "related equipment"; or

(C) The minimum technical information, as follows, for the production of electronic computers and "related equipment" excepted from control by paragraph (h)(2)(iii) or not controlled by paragraph (h)(1):

(1) "Assembling" of prefabricated components or sub-assemblies;

(2) Loading of basic diagnostic software; and

(3) Performing basic go/no go testing of finished products;

Notes: 1. "Assembling" is defined as the testing, and integrating into finished products, of components and sub-assemblies, including mounting components on to printed circuit boards or into other assemblies.

2. This paragraph (j)(1)(i)(C) does not permit the export of technical data or products controlled by other "A" level entries in the Commodity Control List.

(ii) Development, production or use of equipment or systems controlled by paragraphs (b) or (g) in the ECCN 1565A; or

(2) Technical data for the integration of:

(i) Controlled electronic computers or controlled "related equipment" into other equipment or systems whether or not the other equipment or systems are embargoed; or

Note: Nothing in the above controls technical data for integration that is unique to the other equipment or systems if they are free from control.

(ii) Non-controlled electronic computers or non-controlled "related equipment" into controlled equipment or systems.

Advisory Note 9: (GFW ELIGIBILITY AVAILABLE, EXCEPT TO THOSE COUNTRIES IN SUPPLEMENT NO. 4 TO PART 778) Licenses are likely to be approved for export to satisfactory end-users in Country Groups QWY of "digital computers" or "related equipment" therefor controlled by paragraph (h), provided that:

(a) They will be operated by civil end-users for civil applications;

(b) They are exported as complete systems, or as enhancements, provided that the enhanced system does not exceed the limits of paragraph (g) of this Note;

(c) They have been primarily designed and used for non-strategic applications;

(d) They are not ruggedized above the level required for a normal commercial/civil environment;

(e) They do not have any of the following characteristics identified in paragraphs (h)(1)(i)(D) to (h)(1)(i)(M);

(f) They do not have both of the following characteristics:

Note: This does not apply to workstations designed for and limited to graphic arts (e.g., printing, publishing).

(1) They are stand-alone graphics work stations designed or modified for the generation, transformation and display of two- or three-dimensional vectors; or

(2) They exceed either of the following limits:

(i) "Block move data rate"—3 million pixels per second; or

(ii) Maximum bit transfer rate of the channel for direct access to the "main storage" (Direct Memory Access (DMA) channel)—15 million bit/s;

(g) They do not exceed any of the following limits:

(1) Central processing unit—"main storage" combinations:

(i) "Total processing data rate"—550 million bit/s;

(ii) "Total connected capacity" of "main storage"—64 MByte;

(2) Input/Output control unit—drum or disk drive combinations:

(i) Total connected "net capacity"—6 GByte;

(ii) "Maximum bit transfer rate" of any drum or disk drive—25 million bit/s;

(3) Communication control unit—"communication channel" combinations the maximum "data signalling rate" of which does not exceed the limits in ECCN 1519A(a)(2);

(4) Equipment for "local area networks" that is not controlled by an "A" level entry on the Commodity Control List;

(5) Displays or monitors:

(i) Excepted from control; or

(ii) Monochrome displays for systems specially designed for and limited to graphic arts, desktop publishing, document image publishing (e.g., printing, publishing), not exceeding 4,800 resolvable elements in one dimension and 3,600 resolvable elements in the perpendicular dimension;

(6) Equipment for "signal processing" or "image enhancement" that is not controlled by an "A" level entry on the Commodity Control List.

Advisory Note 12: (NOT ELIGIBLE FOR GENERAL LICENSES GFW AND G-COM) Licensees will receive favorable consideration for export to satisfactory end-users in Country Groups QWY of "digital computers" or "related equipment" therefor controlled by paragraph (h) provided that:

(a) The "digital computers" or "related equipment" therefor:

(1) Are not described in paragraph

(h)(1)(i)(D) to (h)(1)(i)(M);

(2) Are exported as complete systems, or as enhancements to a previously exported system provided that the enhanced system

does not exceed the limits of paragraph (b) of this Note;

(3) Have been designed and announced by the manufacturer for identifiable civil use;

(4) Are not ruggedized above the level required for a normal commercial/civil environment; and

(5) Do not have both of the following characteristics:

Note: This does not apply to workstations designed for and limited to graphic arts (e.g., printing, publishing).

(i) They are stand-alone graphics workstations designed or modified for the generation, transformation and display of two- or three-dimensional vectors; and

(ii) They exceed either of the following limits:

(A) "Block move data rate"—5 million pixels per second; or

(B) Maximum bit transfer rate of the channel for direct access to the "main storage" (Direct Memory Access (DMA) channel)—22 million bit/s;

(b) The "digital computers" or "related equipment" therefor do not exceed any of the following limits:

(1) Central processing unit—"main storage" combinations:

(i) "Total processing data rate"—1000 million bit/s;

(ii) "Total connected capacity" of "main storage"—128 MByte;

(2) Input/Output control unit—drum or disk drive combinations:

(i) Total connected "net capacity"—12 GByte;

(ii) "Maximum bit transfer rate" of any drum or disk drive—25 million bit/s;

(3) Communication control unit—"communication channel" combinations the maximum "data signalling rate" of which does not exceed the limits in ECCN 1519(a)(2);

(4) Communication control unit—"local area network" combinations: "data signalling rate" on the common transmission medium not exceeding 20 million bit/s;

(5) Displays or monitors:

(i) Excepted from control; or

(ii) Monochrome displays for systems specially designed for, and limited to, graphic arts, desktop publishing, document image publishing (e.g., printing, publishing), not exceeding 4,800 resolvable elements in one dimension and 3,600 resolvable elements in the perpendicular dimension;

(6) "Equivalent multiply rate" for "signal processing" or "image enhancement" equipment—8 million operations per second, provided the equipment does not have:

(i) "user-accessible microprogrammability"; or

(ii) "user-accessible programmability";

(c) Exports of "digital computers" or "related equipment" therefor covered by this Advisory Note 12 shall be subject to the following restrictions:

(1) In all cases:

(i) A responsible representative of the end-user(s) or the importing agency must submit a signed statement describing the end-use and certifying that:

(A) The "digital computers" or "related equipment" will:

(1) Be used only for civil applications; and

(2) Not be reexported or otherwise disposed of without authorization from the Office of Export Licensing;

(B) Responsible Western representatives of the supplier will:

(1) Have the right of access to the "computer using facility" and all equipment, wherever located, during normal working hours and at any other time the equipment is operating; and

(2) Be furnished information demonstrating continued authorized application of the equipment; and

(C) These Western representatives will be notified of any significant change of application or of other facts, on which the license was based;

(iii) A full description must be provided of:

(A) The equipment; and

(B) Its intended application and workload; and

(iii) A complete identification of all end-users and their activities must be provided;

(2) [Reserved]

(3) There is no visitation requirement when the "total processing data rate" does not exceed 550 million bit/s;

(4) When the parameters of the equipment exceed the limit in paragraph (c)(3) of this Note, the supplier will:

(i) Have a responsible Western representative visit and inspect the "computer using facility" and all equipment, wherever located, at least quarterly for three years; and

(ii) Report periodically to the Office of Export Licensing whether the "digital computers" and "related equipment" therefor are still being used for the approved purposes at the authorized location.

Note: The visitation requirements of paragraph (c)(4) of Advisory Note 12 will be waived for remote "terminal devices" if they consist only of equipment free from control.

Advisory Note 15: (NOT ELIGIBLE FOR GENERAL LICENSES GFW AND G-COM) Licenses will receive favorable consideration for export to satisfactory end-users in Country Groups QWY of instrumentation, test equipment, components and "specially designed software" therefor, for the production of electronic computers or "related equipment" not excepted from control by paragraph (h)(2)(iii) or not controlled by paragraph (h)(1), provided that:

Notes: 1. Nothing in this Note precludes the export of equipment free from control.

2. Nothing in paragraphs (a) and (b) of this Note precludes the export of technical data authorized under other ECCNs in the Commodity Control List.

(a) The instrumentation, test equipment, components and "specially designed software" is the minimum necessary to utilize the technical data excepted from control by paragraph (j);

(b) Equipment for testing integrated circuits is limited to go/no-go tests;

(c) The contract includes explicit conditions to ensure that:

(1) The production technical data or production equipment are not reexported or exported, either directly or indirectly, to another proscribed destination;

(2) The supplier may appoint a representative who is entitled to verify adherence to the licensing conditions;

(3) Modification is permitted only if this does not result in exceeding the technical performance limits or features allowed by this ECCN 1565A;

(4) The Western supplier's personnel have right of access to all the facilities involved in the production of the electronic computers or "related equipment".

Advisory Note 16: Licenses are likely to be approved for export to satisfactory end-users in Country Group QWY of "digital computers" and "related equipment" therefor controlled by paragraph (h), provided that all of the following conditions are met:

(a) The equipment is used for either:

(1) Monitoring or enhancing the safety of water-cooled or moderated civil nuclear reactors; or

Note: This sub-paragraph (a)(1) permits the export of training simulators designed for the specific nuclear power plant dealt with in the particular export request, but does not permit the export of any design or development information for the nuclear reactor.

(2) Monitoring or reducing releases from such reactors or plants into the environment;

(b) The "digital computers" and "related equipment" do not exceed the technical performance limits specified in (Advisory) Note 12 of this ECCN 1565A;

(c) A responsible western representative of the exporter will:

(1) Visit and inspect the "computer using facility" and all equipment, wherever located, at least quarterly for three years; and

(2) Report periodically to the Office of Export Licensing whether the "digital computers" and "related equipment" therefor are still being used for the approved purposes at the authorized location.

Advisory Note 17 (for the People's Republic of China): * * *

(b) * * *

(1) Central processing unit—"main storage" combinations with a "total processing data rate" of 550 million bit/s; or

* * *

Definitions of Terms:

The following are definitions of terms used in ECCN 1565A:

* * *

Local area network—* * *

Main storage—* * *

Note: For the determination of the size of "main storage" the cache storage may be excluded, provided:

(a) Its size does not exceed 0.25% (1/16th) of the size of "main storage" excluding cache storage; and

(b) It is designed to contain only data already contained in "main storage".

* * *

Personal computer—* * *

* * *

Principal element—

An element is a "principal element" when its replacement value is more than 35% of the total value of the system of which it is an element. Element value is the price paid for

the element by the manufacturer of the system, or by the system integrator. Total value is the normal international selling price to unrelated parties at the point of manufacture or consolidation.

Total connected capacity— * * *

Note: * * *

Part A. Conversion of Byte to bit in computing storage limits:

(a) 1 Byte (B)	=	8 bits
(b) 1 KByte (KB)	=	1024 Bytes
(c) 1 MByte (MB)	=	1024 KBytes
(d) 1 GByte (GB)	=	1024 MBytes

Total processing data rate— * * *

Execution Time— * * *

Note 1: * * *

Note 2: When calculating "processing data rate" for computers with cache sizes smaller than 64 KBytes, the "execution time" of the appropriate instructions will be calculated as follows:

(cache hit rate) × ("execution time" when both instruction and operand are in cache storage) + (1 - cache hit rate) ("execution time" when neither instruction nor operand are in cache storage), the cache hit rate being:

1.00 for cache size of 64 KByte or more
 0.95 for cache size of 32 KByte or more
 0.90 for cache size of 16 KByte or more
 0.85 for cache size of 8 KByte or more
 0.75 for cache size of 4 KByte or more
 0.65 for cache size of 2 KByte or more
 0.50 for cache size of 1 KByte or more

But the cache effect will be neglected for computers with cache sizes smaller than 1 KByte.

Total Transfer Rate— * * *

Supplement No. 1 to § 799.1 [Amended]

35. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 6565G is amended by revising the heading and adding a "Technical Data" paragraph immediately following the "Validated License Required" paragraph to read as follows:

6565G Computers excepted from control by ECCN 1565A

Technical Data: Technical data related to computers in this 6565G is controlled by ECCN 1565A, paragraph (j).

Supplement No. 1 to § 799.1 [Amended]

36. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1567A is amended:

a. By adding a new **Technical Data and Software** paragraph following the **Validated License Required** paragraph;

b. By revising in Technical Note 3 following the *Special South Africa and Namibia Controls* paragraph and in the Note that follows Technical Note 3 the phrase "ECCN 1519(c)" to read "ECCN 1519A(a)";

c. By removing and reserving paragraph (a)(2);

d. By revising paragraphs (a)(3) and (a)(4);

e. By adding new paragraphs (a)(5) and (a)(6);

f. By removing the parenthetical sentence immediately preceding paragraph (b)(1);

g. By adding new paragraphs (b)(1)(iii) and (b)(1)(iv);

h. By removing and reserving paragraph (b)(2)(ii);

i. By revising paragraph (b)(2)(iii);

j. By adding new paragraphs (b)(2)(vii) and (b)(2)(viii);

k. By revising paragraph (b)(3)(ii);

l. By adding new paragraphs (b)(3)(vii) and (b)(3)(viii), formerly reserved;

m. By adding a new paragraph (b)(4);

n. By adding a new paragraph (c);

o. By adding a new Note 1, formerly Advisory Note 1 (Reserved);

p. By revising Advisory Note 2;

q. By removing the Technical Note that follows Advisory Note 2;

r. By removing and reserving paragraph (c) in Advisory Note 4;

s. By revising paragraphs (d) and (e) in Advisory Note 4;

t. By adding in Advisory Note 4 new paragraphs (j) and (k), formerly reserved;

u. By revising paragraph (m) in Advisory Note 4;

v. By removing and reserving Advisory Note 6;

w. By removing the Note that precedes paragraph (a) in Advisory Note 7;

x. By removing and reserving paragraph (c) in Advisory Note 7;

y. By revising paragraphs (d) and (e) in Advisory Note 7;

z. By adding in Advisory Note 7 new paragraphs (h) and (j), formerly reserved;

aa. By revising paragraph (e)(2) and removing paragraph (e)(3) in Advisory Note 9 (for the People's Republic of China);

bb. By revising paragraph (d)(2) and removing paragraph (d)(3) in Advisory Note 10 (for the People's Republic of China);

cc. By revising in paragraph (e)(6) of Advisory Note 10 (for the People's Republic of China) the phrase "ECCN 1529A(a)(2)" to read "ECCN 1529A(d)";

dd. By revising in paragraph (e)(8)(ii) of Advisory Note 10 (for the People's Republic of China) the phrase "the

following" to read "both of the following";

ee. By revising paragraph (d)(2) and removing paragraph (d)(3) in Advisory Note 11 (for the People's Republic of China);

ff. By revising paragraph (e) in Advisory Note 12 (for the People's Republic of China);

gg. By revising in paragraph (g)(6) of Advisory Note 12 (for the People's Republic of China) the phrase "ECCN 1529A(a)(2)" to read "ECCN 1529A(d)";

hh. By revising in paragraph (g)(8)(ii) of Advisory Note 12 (for the People's Republic of China) the phrase "all of the following" to read "both of the following";

ii. By revising the introductory text of Advisory Note 15 for the People's Republic of China;

jj. By removing the word "and" at the end of paragraph (d) in Advisory Note 15 for the People's Republic of China and revising the word "activities," at the end of paragraph (e) to read "activities; and";

kk. By adding a new paragraph (f) immediately following paragraph (e) in Advisory Note 15 (for the People's Republic of China);

ll. By revising the introductory text and paragraph (b) of Advisory Note 17 for the People's Republic of China; and;

mm. By adding a new Advisory Note 18 and a new Note immediately following Advisory Note 18;

nn. By adding new Advisory Notes 19 and 20;

oo. By adding a new Advisory Note 21 and a new Note immediately following Advisory Note 21;

pp. By adding a new Advisory Note 22 and a new Note immediately following Advisory Note 22; and

qq. By adding a new Advisory Note 23.

as follows:

1567A Stored program controlled communication switching equipment or systems, and specially designed components therefor for the use of these equipment or systems.

Controls for ECCN 1567A

Validated License Required: * * *

Technical Data and Software: Technical data related to items controlled by this ECCN is described in paragraph (c). GTDR with written assurance is available for Country Groups T and V, except the People's Republic of China and Afghanistan. A

validated license is required for all other destinations.

List of Stored Program Controlled Communication Switching Equipment or Systems, and Specially Designed Components Therefor for the Use of these Equipment or Systems Controlled by ECCN 1567A.

- (a) * * *
- (2) [Reserved]
- (3) The maximum "data signalling rate" of any circuit does not exceed 9,600 bit/s;
- (4) The equipment or systems do not contain "digital computers" or "related equipment" controlled by:
 - (i) ECCN 1565A(f); or
 - (ii) ECCN 1565A (h)(1)(i)(A).
- (h)(1)(i)(B), or (h)(1)(i)(D) to (h)(1)(i)(f):
- (5) The "software" supplied:
 - (i) Is limited to:
 - (A) "Specially designed software" necessary for the use (i.e., installation, operation and maintenance) of the equipment or systems; and
 - (B) Machine-executable form; and
 - (ii) Does not include "software":
 - (A) Controlled by ECCN 1527A, paragraph (a)(5) of Supplement No. 3 to Part 779, or Item 11 on the U.S. Department of State's Munitions Control List (Supplement No. 2 to Part 770); or
 - (B) To permit user-modification of generic "software" or its associated documentation; and
 - (6) If the equipment or systems are not designed for installation by the user without support from the supplier, the "software" necessary for commissioning is:
 - (i) Exported on a temporary basis only; and
 - (ii) Kept under the control of the supplier;
- (b) * * *
- (1) * * *
- (iii) The "software" supplied:
 - (A) Is limited to:
 - (i) "Specially designed software" necessary for the use (i.e., installation, operation and maintenance) of the equipment or systems; and
 - (2) Machine-executable form; and
 - (B) Does not include "software":
 - (i) Controlled by ECCN 1527A, paragraph (a)(5) of Supplement No. 3 to Part 779, or Item 11 on the U.S. Department of State's Munitions Control List (Supplement No. 2 to Part 770); or
 - (2) To permit user-modification of generic "software" or its associated documentation; and
 - (iv) If the equipment or systems are not designed for installation by the user without support from the supplier, the "software" necessary for commissioning is:
 - (A) Exported on a temporary basis only; and

- (A) Exported on a temporary basis only; and
- (B) Kept under the control of the supplier;
- (2) * * *
- (ii) [Reserved]
- (iii) The equipment or systems do not contain "digital computers" or "related equipment" controlled by:
 - (A) ECCN 1565A(f); or
 - (B) ECCN 1565A (h)(1)(i)(A) to (h)(1)(i)(M);
- (vii) The "software" supplied:
 - (A) Is limited to:
 - (i) "Specially designed software" necessary for the use (i.e., installation, operation and maintenance) of the equipment or systems; and
 - (2) Machine-executable form; and
 - (B) Does not include "software":
 - (i) Controlled by ECCN 1527A, paragraph (a)(5) of Supplement No. 3 to Part 779, or Item 11 on the U.S. Department of State's Munitions Control List (Supplement No. 2 to Part 770); or
 - (2) To permit user-modification of generic "software" or its associated documentation; and
 - (viii) If the equipment or systems are not designed for installation by the user without support from the supplier, the "software" necessary for commissioning is:
 - (A) Exported on a temporary basis only; and

(B) Kept under the control of the supplier;

(4) "Stored program controlled telephone circuit switching" equipment or systems, provided that:

- (i) The equipment or systems are designed for fixed civil use as "space-division digital exchanges" or "time-division digital exchanges" that fulfill the definition of "private automatic branch exchanges" ("PABXs");
- (ii) The equipment or systems do not have more than 512 ports;
- (iii) Do not support any form of Integrated Services Digital Networks (ISDN);

(iv) The equipment or systems do not contain "digital computers" or "related equipment" controlled by:

- (A) ECCN 1565A(f); or
- (B) ECCN 1565A(h)(1)(i)(A) to (h)(1)(i)(M);

(v) The "PABXs" do not have any of the following features:

- (A) Multi-level call pre-emption, including overriding or seizing of busy subscriber lines "trunk circuits" or switches;

Note: This does not preclude single level call pre-emption (e.g., executive override).

- (B) "Common channel signalling";
- (C) Dynamic adaptive routing;
- (D) Reserved;
- (E) Reserved;
- (F) Digital synchronization circuitry that uses equipment controlled by ECCN 1529A(d);
- (G) Reserved; or
- (H) Centralized network control having all of the following characteristics:
 - (i) Is based on a network management protocol; and
 - (2) Does all the following:
 - (i) Receives data from the nodes; and
 - (ii) Processes these data in order to:
 - (A) Control traffic; and
 - (B) Directionalise paths;
 - (vi) "Communications channels" or "terminal devices" used for administrative and control purposes;
 - (A) Are fully dedicated to these purposes; and
 - (B) Do not exceed 9,600 bit/s;
- (vii) The "software" supplied:
 - (A) Is limited to:
 - (i) "Specially designed software" necessary for the use (i.e., installation, operation and maintenance) of the equipment or systems; and
 - (2) Machine-executable form; and
 - (B) Does not include "software":
 - (i) Controlled by ECCN 1527A, paragraph (a)(5) of Supplement No. 3 to Part 779, or Item 11 on the U.S. Department of State's Munitions Control List (Supplement No. 2 to Part 770); or

(2) To permit user-modification of generic "software" or its associated documentation; and

(viii) If the equipment or systems are not designed for installation by the user without support from the supplier, the "software" necessary for commissioning is:

(A) Exported on a temporary basis only; and

(B) Kept under the control of the supplier;

(c) Technical data applicable to the development, production or use (i.e., installation, operation and maintenance) of stored program controlled communication switching equipment or systems, even if these equipment or systems are not embargoed by this ECCN 1567A, except the minimum technical information necessary for the use of stored program controlled communication switching equipment or systems that are free from control.

Note 1: This ECCN 1567A does not control the shipment of the minimum technical data for the use (i.e., installation, operation and maintenance) of stored program controlled communication switching equipment or systems authorized for export, when shipped together with or solely for use with these stored program controlled communication switching equipment or systems.

Advisory Note 2: Licenses are likely to be approved for export to satisfactory end-users in Country Groups Q, W, and Y of spare parts for previously exported stored program controlled communication switching equipment or systems. For the purposes of this ECCN 1567A, however, spare parts to upgrade the performance of the equipment up to the level specified in the relevant Advisory Note shall be permitted.

Advisory Note 4: * * *

(d) The equipment or systems do not contain "digital computers" or "related equipment": controlled by:

(1) ECCN 1565A (f) or

(2) ECCN 1565A(h)(1)(i)(A) to (h)(1)(i)(M);

(e) The "PABXs" do not have any of the following features:

(1) Multi-level call pre-emption, including overriding or seizing of busy subscriber lines, "trunk circuits" or switches;

Note: Paragraph (e)(1) of Advisory Note 4 does not preclude single level call pre-emption (e.g., executive override).

(2) "Common channel signalling";

(3) Dynamic adaptive routing;

(4) Interconnections that:

(i) Are specially designed for multi-RF channel radio equipment controlled by ECCN 1516A or ECCN 1531A(d);

(ii) Are specially designed for automatic hand-off of cellular radio calls to other cellular switches or to a centralized subscriber data base; or

(iii) Contain cryptographic equipment or software controlled ECCN 1527A;

(5) Reserved;

(6) Digital synchronization circuitry that uses equipment controlled by ECCN 1529A(d);

(7) Reserved; or

(8) Centralized network control having all of the following characteristics:

(i) Is based on a network management protocol; and

(ii) Does all the following:

(A) Receives data from the nodes; and

(B) Processes these data in order to:

(1) Control traffic; and

(2) Directionalize paths;

(j) The "software" supplied:

(1) Is limited to:

(i) "Specially designed software" necessary for the use (i.e., installation, operation and maintenance) of the equipment or systems; and

(ii) Machine-executable form; and

(2) Does not include "software":

(i) Controlled by ECCN 1527A, paragraph (a)(5) of Supplement No. 3 to Part 779, or Item 11 on the U.S. Department of State's Munitions Control List (Supplement No. 2 to Part 770); or

(ii) To permit user-modification of generic "software" or its associated documentation; and

(k) If the equipment or systems are not designed for installation by the user without support from the supplier, the "software" necessary for commissioning is:

(1) Exported on a temporary basis only; and

(2) Kept under the control of the supplier;

(l) [Reserved]

(m) Licenses to export commodities covered by this Advisory Note 4 must be accompanied by a statement identifying:

(1) The equipment or system to be provided;

(2) The intended application.

Advisory Note 7: * * *

(d) The equipment or systems cannot be adapted to mobile use or security use, as described in ECCN 1565A (f)(1) to (f)(4) or (g);

(e) The equipment or systems do not have any of the following features:

(1) Multi-level call pre-emption including overriding or seizing of busy subscriber lines, "trunk circuits" or switches;

Note: This does not preclude single level call pre-emption (e.g., executive override).

(2) "Common channel signalling";

(3) Dynamic adaptive routing;

(4) Interconnections that:

(i) Are specially designed for multi-RF channel radio equipment controlled by ECCN 1516A or ECCN 1531A(d);

(ii) Are especially designed for automatic hand-off of cellular radio calls to other cellular switches or to a centralized subscriber data base; or

(iii) Contain cryptographic equipment or "software" controlled by ECCN 1527A;

(5) Digital subscriber line interfaces exceeding 64,000 bit/s;

(6) Digital synchronization circuitry that uses equipment controlled by ECCN 1529A(d);

(7) [Reserved]; or

(8) Centralized network control having all of the following characteristics:

(i) Is based on a network management protocol; and

(ii) Does both of the following:

(A) Receives data from the nodes; and

(B) Processes these data in order to:

(1) Control traffic; and

(2) Directionalize paths;

(h) The "software" supplied:

(1) Is limited to:

(i) "Specially designed software" necessary for the use (i.e., installation, operation and maintenance) of the equipment or systems; and

(ii) Machine-executable form; and

(2) Does not include "software":

(i) Controlled by ECCN 1527A, paragraph (a)(5) of Supplement No. 3 to Part 779, or Item 11 on the U.S. Department of State's Munitions Control List (Supplement No. 2 to Part 770); or

(ii) To permit user-modification of generic "software" or its associated documentation; and

(i) [Reserved]

(j) If the equipment or systems are not designed for installation by the user without support from the supplier, the "software" necessary for commissioning is:

(1) Exported on a temporary basis only; and

(2) Kept under the control of the supplier;

Advisory Note 9 (for the People's Republic of China):

(e) * * *

(2) ECCN 1565A (h)(1)(i)(A) to (h)(1)(i)(M);

Advisory Note 10 (for the People's Republic of China):

(d) * * *

(2) ECCN 1565A (h)(1)(i)(A) to (h)(1)(i)(M);

Advisory Note 11 (for the People's Republic of China):

(d) * * *

(2) ECCN 1565A (h)(1)(i)(A) to (h)(1)(i)(M);

Advisory Note 12 (for the People's Republic of China):

(e) The equipment or systems cannot be adapted to mobile use or security use, as described in ECCN 1565A (f)(1) to (f)(4) or (g);

Advisory Note 15 (for the People's Republic of China): Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of technical data or repair facilities controlled by this ECCN 1567A for repair of stored program controlled

communication switching equipment or systems, provided that:

(f) Technical data for general purpose computers is not eligible for consideration under this Advisory Note 15 for the People's Republic of China (i.e., it continues to be controlled under ECCN 1565A(j)).

Note: * * *

Advisory Note 17 for the People's Republic of China: Licenses will receive favorable consideration for export to satisfactory end-users in the People's Republic of China of technical data controlled by paragraph (c) of this ECCN 1567A, and of instrumentation, test equipment, components or specially designed "software" therefor for modification, production or use of equipment or system, provided that:

(b) Technical data for general purpose computers is not eligible for consideration under this Advisory Note 17 for the People's Republic of China (i.e., it continues to be controlled under ECCN 1565A(j)).

Advisory Note 18: (Not Eligible for General Licenses GFW or G-COM.) Licenses will receive favorable consideration for export to satisfactory end-users in Country Groups Q, W, and Y of technical data controlled by paragraph (c) of this ECCN 1567A, and of instrumentation, test equipment, and components and "specially designed software" therefor and materials and components controlled by this ECCN 1567A or other entries on the Commodity Control List, for modification or production of "stored program-controlled circuit switching" equipment or systems provided that:

Note: Technical data for general purpose computers is not eligible for consideration under Advisory Note 18 (i.e., it continues to be controlled under ECCN 1565A(j)).

(a) The characteristics of the "stored program controlled circuit switching" equipment or systems are limited to those that make them free from control or eligible for consideration under Advisory Notes;

(b) Modification of the "stored program controlled circuit switching" equipment or systems is not permitted if any aspect of the design would result in exceeding the performance thresholds or features of the relevant Advisory Notes;

(c) Testing of large scale integrated (LSI) circuits or those with higher component densities is limited to go/no go tests;

Note: Paragraph (c) of this Advisory Note 18 does not preclude exports of equipment or technical data that would be possible according to the provisions of other ECCNs.

(d) The "specially designed software" is the minimum necessary "software" to utilize the transferred technical data, instrumentation and test equipment;

(e) The manufacturing of the load tape by the licensee is limited to the addition to the generic software of the specific customer data and site parameters;

(f) Development technical data is not included;

(g) The contract includes explicit conditions to ensure that:

(1) The production technical data or production equipment is not reexported or exported, either directly or indirectly, to another proscribed destination;

(2) The supplier or licensor may appoint a representative who is entitled to verify that the production technical data and production equipment or system serve their intended use;

(3) Any modification of the capabilities or functions of the produced equipment must be approved by the supplier or licensor;

(4) The supplier's or licensor's personnel have right of access to all the facilities directly involved in the production of the "stored program-controlled circuit switching" equipment or systems;

(5) The production technical data, production equipment and produced equipment or systems will be for civil end-use only;

(h) System integration testing will be performed by the supplier or licensor, if it requires test tools that provide the licensee the capability to recover source code or upgrade the system beyond the performance threshold or features of the relevant Advisory Notes;

(i) End-use reporting of the installed switching equipment will be provided as per applicable Advisory Notes;

Note: No export under Advisory Note 18 shall establish a precedent for export approval under other entries in the Commodity Control List.

Advisory Note 19: Licenses are likely to be approved for export to satisfactory end-users in Country Groups Q, W, and Y of "data (message) switching" equipment or systems controlled by paragraph (a) of this ECCN 1567A, provided that:

(a) The equipment or systems are designed to meet the requirements of either:

(1) CCITT Recommendations F.1 to 79 for store-and-forward systems (Volume II—Fascicle II.4, 11th plenary assembly, 10th–21st November, 1980); or

(2) ICAO Recommendations for store-and-forward civil aviation communication networks (Annex 10 to the Convention on International Civil Aviation, including all amendments agreed up to and including 14th December, 1981);

(b) The equipment or systems:

(1) Are designed and used for fixed civil "data (message) switching" applications;

(2) Will be used primarily for the specified civil application; and

(3) Will be operated in the importing country by:

(i) The Post, Telegraph and Telephone Authority in order to provide public "data (message) switching" services for:

(A) Domestic civil use; or

(B) International civil use with Western countries;

(ii) A civil authority, which is a member of an intergovernmental organization including Western countries (e.g., ITU or ICAO), in order to provide an extension of international "data (message) switching" services in the importing country to fulfill a commitment to the intergovernmental organization; or

(iii) A civil public service organization, in order to provide "data (message) switching" services in a densely populated, commercial area for:

(A) Private domestic civil use; or

(B) Private international civil use with Western countries;

(c) The number, type and characteristics of such equipment or systems are normal for the approved application;

(d) [Reserved];

(e) The equipment or systems do not contain "digital computers" or "related equipment" controlled by:

(1) ECCN 1565(f); or

(2) ECCN 1565A(h)(1) (A) to (h)(1)(i) (M);

(f) The "software" supplied:

(1) Is limited to:

(i) "Specially designed software" necessary for the use (i.e., installation, operation and maintenance) of the equipment or systems; and

(ii) Machine-executable form; and

(2) Does not include "software";

(i) Controlled by ECCN 1527A, paragraph (a)(5) of Supplement No. 3 to Part 779, or Item 11 on the U.S. Department of State's Munitions List (Supplement No. 2 of Part 770); or

(ii) To permit user-modification of generic "software" or its associated documentation;

(g) If the equipment or systems are not designed for installation by the user without support from the supplier, then the "software" necessary for commissioning is:

(1) Exported on a temporary basis only;

and

(2) Kept under the control of the supplier;

(h) [Reserved];

(i) [Reserved]; and

(j) A license application to export any commodities covered by this Advisory Note includes:

(1) A statement identifying:

(i) The equipment or system to be provided; and

(ii) The intended application and traffic load; and

(2) A complete identification of all end-users and their activities.

Advisory Note 20: Licenses are likely to be approved for export to satisfactory end-users in Country Groups Q, W, and Y of "stored program controlled circuit switching" equipment or systems, controlled by paragraph (b) of this ECCN 1567A, provided that:

(a) The equipment or systems are designed for fixed civil use of "stored program controlled telegraph circuit switching" for data;

(b) the equipment or systems:

(1) Are designed and used for fixed civil "stored program controlled telegraph circuit switching" applications; and

(2) Will be operated in the importing country by a civil end-user who has furnished to the supplier a signed statement, certifying that the equipment or systems will be used for the specified end-use at a specified location only;

(c) [Reserved];

(d) The equipment or systems do not contain "digital computers" or "related equipment" controlled by:

(1) ECCN 1565A(f); or

(2) ECCN 1565A(h)(1)(i)(A) to (h)(1)(i)(M);

(e) The equipment or systems do not have the following features:

(1) Multi-level call pre-emption including overriding or seizing of busy subscriber lines, "trunk circuits" or switches;

Note: This does not preclude single level call pre-emption (e.g., executive override).

(2) "Common channel signalling";

(f) The maximum internal bit rate per channel does not exceed 9,600 bit/s;

(g) [Reserved];

(h) The "software" supplied;

(i) Is limited to:

(i) "Specially designed software" necessary for the use (i.e., installation, operation and maintenance) of the equipment or systems; and

(ii) Machine-executable form; and

(2) Does not include "software":

(i) Controlled by ECCN 1527A, paragraph (a)(5) of Supplement No. 3 to Part 779, or Item 11 of the U.S. Department of State's Munitions List (Supplement No. 2 to Part 770); or

(ii) To permit user-modification of generic "software" or its associated documentation;

(i) [Reserved];

(j) If the equipment or systems are not designed for installation by the user without support from the supplier, then the "software" necessary for commissioning is:

(1) Exported on a temporary basis only; and

(2) Kept under the control of the supplier;

(k) [Reserved];

(l) A license application to export any commodities covered by this Advisory Note includes:

(1) A statement identifying:

(i) The equipment or system to be provided; and

(ii) The intended application and traffic load; and

(2) A complete identification of all end-users and their activities.

Advisory Note 21: Licenses are likely to be approved for export to satisfactory end-users in Czechoslovakia, Hungary, and Poland of "stored program controlled communication switching" equipment or systems with any of the following features:

(a) "Common channel signalling";

(b) Digital subscriber line interfaces not exceeding a "data signalling rate" of 144,000 bit/s;

(c) Interconnections for cellular radio systems;

(d) "Communications channels" or "terminal devices" used for administrative and control purposes that do not exceed the limits in ECCN 1519A;

(e) Integrated Services Digital Network (ISDN);

Note: A license application to export any commodities covered by Advisory Note 21 must include an end-use statement from the importing government providing the government's assurance that:

(a) That export is intended solely for the stated end-use; and

(b) On-site inspections will be permitted at the request of the exporter or the United States Government.

Advisory Note 22: Licenses are likely to be approved for export to satisfactory end-users in Country Groups Q, W, and Y of technical data or repair facilities controlled by this ECCN 1567A for repair of stored program

controlled communications switching equipment or systems; provided that:

(a) Any technical data to be transferred is strictly limited to "operation technical data" as described in § 779.4(b)—(Any technical data that does not meet the requirements of § 779.4(b) for shipment under General License CTDR must be the subject of a separate export license application);

(b) The repair facilities;

(1) Are specifically designed equipment for repair;

(2) Are to be used to repair controlled equipment authorized for export under an Advisory Note, or equipment that is not controlled for export;

(3) Are shipped in reasonable quantities necessary for the types and quantities of exported equipment being serviced;

(4) Do not provide local production facilities; and

(5) Do not provide for testing of individual electronic components;

(c) The repair does not upgrade the equipment or systems beyond the performance thresholds approved for export under the conditions of this ECCN 1567A;

(d) All the records of repair activity are kept by a representative of the Western supplier;

(e) Technical data for general purpose computers is not eligible for consideration under this Advisory Note 22 (i.e., it continues to be controlled under ECCN 1565A(j)).

Note: Nothing in Advisory Note 22 overrides controls elsewhere in the Commodity Control List.

Advisory Note 23: Licenses are likely to be approved for export to satisfactory end-users in Country Groups Q, W, and Y of "data (message) switching" equipment or systems controlled by paragraph (a) of this ECCN 1567A, provided that:

(a) The equipment or systems are designed for fixed civil use and stored program controlled "packet-mode operation";

(b) The equipment or systems do not have any of the following features:

(1) "Datagram" service;

(2) "Fast select";

(3) Dynamic adaptive routing;

(4) Precedence, priority override or multilevel call preemption;

(5) Centralized network control having all of the following characteristics:

(i) Is based on a network management protocol; and

(ii) Does all the following:

(A) Receives data from the nodes; and

(B) Processes these data in order to:

(1) Control traffic; and

(2) Directionalize paths;

(c) The "software" supplied:

(1) Is limited to:

(i) The minimum "specially designed software," necessary for the use (i.e., installation, operation and maintenance) of the equipment or systems; and

(ii) Machine-executable form; and

(2) Does not include "software":

(i) Controlled by ECCN 1527A, paragraph (a)(5) of Supplement No. 3 to Part 779, or Item 11 on the U.S. Department of State's Munitions List (Supplement No. 2 to Part 770); or

(ii) To permit user-modification of generic "software" or its associated documentation;

(d) If the equipment or systems are not designed for installation by the user without support from the supplier, then the "software" necessary for commissioning is:

(1) Exported on a temporary basis only; and

(2) Kept under the control of the supplier;

(e) Reserved;

(f) No "internetwork gateways" are provided other than for messages originating from or terminating in Western countries;

Note: Connections of private networks to international destinations must be via public "internetwork gateways".

(g) Node throughput does not exceed 153,600 octets per second;

Note: One octet in, at any port, plus one octet out, also at any port, equals a throughput of one octet. One octet is defined as eight bits residing in the user data field.

(h) Port throughput does not exceed a "data signalling rate" of 9,600 bit/s;

(i) All the applicable conditions enumerated in paragraphs (a) to (d) of this Advisory Note 23 are accomplished by:

(1) Omission or physical removal of equipment or coding;

(2) Over-writing with non-functioning statements; or

(3) Reasonably non-reversible modifications.

Supplement No. 1 to § 799.1 [Amended]

37. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1568A is amended by removing the remainder of the entry beginning with the (Advisory) Note for the People's Republic of China that follows paragraph (e) in the "List of Equipment Controlled" and by adding a new Note 1 at the end of the entry, as follows:

1568A Analog-to-digital and digital-to-analog converters, position encoders and transducers, and specially designed components and test equipment therefor

* * * * *

(e) * * *

Technical Note: * * *

Note 1: This ECCN does not control the following analog-to-digital or digital-to-analog converters:

(a) Analog-to-digital converters with more than 200 ns conversion time to a maximum resolution of 12 bit;

(b) Digital-to-analog converters with more than 200 ns settling time for voltage output and a maximum resolution of 12 bit; or

(c) Digital-to-analog converters with more than 25 ns settling time for current output and a maximum resolution of 12 bit.

Supplement No. 1 to § 799.1 [Amended]

38. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), a new ECCN 4568B is added following ECCN 1568A, as follows:

4568B Electrical input type analog-to-digital converters and specially designed components therefor**Controls for ECCN 4568B**

Unit: Report instruments and equipment in "number" parts and accessories in "\$ value".

Validated License Required: Country Groups QSTVWYZ.

GLV \$ Value Limit: \$3,000 for Country Groups T & V, except \$0 for the People's Republic of China; \$0 for all other destinations.

Processing Code: EE.

Reason for Control: Foreign policy. Foreign policy controls apply to commodities described in this ECCN 4568B for nuclear weapons delivery purposes.

Special Licenses Available: None.

Technical Data: Export of certain related technical data require a validated license to all destinations except Canada (see § 779.4(d)(20)).

List of Commodities Controlled by ECCN 4568B

(a) Electrical input type analog-to-digital converters that—

(1) Have any of the following characteristics:

(i) A conversion rate of more than 200,000 complete conversions per second at rated accuracy;

(ii) An accuracy in excess of 1 part in more than 10,000 of full scale over the specified operating temperature range; or

(iii) A figure of merit 1×10^8 or more (derived from the number of complete conversions per second divided by the accuracy); and

(2) Have a conversion time of 200 ns or less to a maximum resolution of 12 bit.

(b) Specially designed components for the analog-to-digital converters described in paragraph (a) of this ECCN 4568B.

Supplement No. 1 to § 799.1 [Amended]

39. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1570A is amended:

a. By revising the ECCN heading;

b. By revising the heading "Controls for ECCN";

c. By revising the *Validated License Required* paragraph;

d. By revising the *GLV \$ Value Limit* paragraph;

e. By revising the *Reason for Control* paragraph;

f. By revising the ECCN "1570A" to read "5570F" in the heading "List of Thermoelectric Materials and Devices Controlled";

g. By removing paragraphs (b) and (c) and redesignating paragraph (d) as new paragraph (b); and

h. By revising the phrase "sub-paragraph (d)" to read "paragraph (b)" in the Technical Note, as follows:

5570F Thermoelectric materials and devices.**Controls for ECCN 5570F**

Validated License Required: Country Groups S and Z, Taiwan, and countries listed in Supplement No. 4 to Part 778.

GLV \$ Value Limit: \$0 for Country Groups S and Z; \$750 for all other destinations.

Reason for Control: Nuclear nonproliferation.

Supplement No. 1 to § 799.1 [Amended]

40. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1584A is amended:

a. By revising the ECCN heading;

b. By revising the heading "Controls for ECCN";

c. By revising the *Validated License Required* paragraph; and

d. By revising the *GLV \$ Value Limit* paragraph;

e. By revising the *Reason for Control* paragraph;

f. By revising the ECCN "1584A" to read "5584F" in the heading "List of Equipment Controlled" and in the sentence that follows the heading "Technical Notes", as follows:

5584F Oscilloscopes, transient recorders and plug-in modules, as follows, and specially designed components, including amplifiers, preamplifiers and sampling devices therefor.

Controls for ECCN 5584F

Validated License Required: Country Groups S and Z, Taiwan, and countries listed in Supplement No. 4 to Part 778.

GLV \$ Value Limit: \$0 for Country Groups S and Z; \$3,000 for all other destinations.

Reason for Control: Nuclear nonproliferation; foreign policy. Foreign policy controls apply to exports and reexports to Iran.

Supplement No. 1 to § 799.1 [Amended]

41. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1585A is amended by revising Advisory Note 4 for the People's Republic of China and by adding a new Note 5, as follows:

1585A Cameras, components and photographic recording media.

(Advisory) Note 4 for the People's Republic of China: Licenses are likely to be approved for export to satisfactory end-users in the People's Republic of China of mechanical framing cameras controlled by paragraph (b) of this ECCN that are designed for civil purposes (i.e., non-nuclear uses) with a framing speed of not more than 2×10^6 frames per second.

Note 5: Paragraph (a)(1) of this ECCN 1585A does not control non-ruggedized cinema recording cameras for normal civil purposes.

Supplement No. 1 to § 799.1 [Amended]

42. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity Group 5 (Electronics and Precision Instruments), ECCN 1587A is amended:

a. By revising the ECCN heading;

b. By revising the heading "Controls for ECCN";

c. By revising the *Reason for Control* paragraph;

d. By revising ECCN "1587A" to read "4587B" in the *Special Licenses Available* paragraph and in the heading "List of Characteristics of Quartz Crystals and Assemblies Thereof Controlled";

e. By removing paragraphs (a) and (b) and the Note that follows paragraph (b);

f. By removing the designation from paragraph (c) and by redesignating paragraphs (c)(1) through (c)(5) as paragraphs (a) through (e), respectively; and

g. By removing the Advisory Note (for the People's Republic of China), as follows:

4587B Quartz crystals and assemblies thereof in a stage of fabrication (i.e., worked, semi-finished or mounted)

Controls for ECCN 4587B

Reason for Control: Foreign policy. Foreign policy controls apply to commodities described in this ECCN 4587B only when usable as launch and ground support equipment for nuclear weapons delivery systems.

Supplement No. 1 to § 799.1 [Amended]

43. In Supplement No. 1 to § 799.1 (the Commodity Control List), Commodity

Group 7 (Chemicals, Metalloids, Petroleum Products and Related Materials), ECCN 1763A is amended by removing the Advisory Note for the People's Republic of China at the end of the entry and by adding a new Note 7, as follows:

1763A "Fibrous and filamentary materials" that may be used in organic "matrix", metallic "matrix" or carbon "matrix" "composite" structures or laminates and such composite structures and laminates and "specially designed software" therefor

Note 7: Paragraph (b) of this ECCN 1763A does not control discontinuous ceramic fibers having a melting or sublimation point lower than 2,043 K (1,770°C) (3,218°F) in an inert environment.

44. Supplement No. 1 to § 799.2 (Interpretations) is amended by adding a new Interpretation No. 6 (formerly reserved) to read as follows:

**Supplement No. 1 to § 799.2—
Interpretations**

**Interpretation 6: Telecommunications
Equipment and Systems**

Communications equipment and systems capabilities and features have proliferated to the point where it is sometimes impractical to write control parameters to differentiate between specific applications having strategic significance and those eligible for export at lower control levels. COCOM makes these differentiations in documentation not available to the general public. The following interpretations have been made:

(a) Equipment for paging systems (broadcast radio or selectively signalled receiving systems) is not included in the definition of "data (message) switching" of ECCN 1567A.

(b) [Reserved]

Dated: June 25, 1990.

James M. LeMunyon,
Deputy Assistant Secretary for Export
Administration.

[FR Doc. 90-15089 Filed 6-28-90; 8:45 am]

BILLING CODE 3510-DT-M

DEPARTMENT OF LABOR

Employment and Training

Administration

20 CFR Parts 626, 636, 638, 675, 677,
678, 679, 680, 684, 685, 688, and 689

RIN 1205-AA54

**Redesignation and Revision of
Regulations for Job Corps Program
Under Title IV-B; and Removal of
Comprehensive Employment and
Training Act Regulations; Correction**

AGENCY: Employment and Training
Administration, Labor.

ACTION: Final rule; correction.

SUMMARY: The Employment and Training Administration is correcting an error in the regulations for the Job Corps Program which appeared in the Federal Register on April 6, 1990 (55 FR 12992). The final rule contained an error which is discussed briefly below and is corrected by this document.

Section 626.2 of 20 CFR part 626 was amended by the final rule to note that the Job Corps regulations under Job Training Partnership Act (JTPA) Title IV-B now are published in the CFR near the other JTPA regulations. 55 FR at 12996. Section 626.2 describes the format of the JTPA regulations, explaining where the various JTPA regulations are published in the CFR. However, the final rule did not reflect an amendment made to 20 CFR 626.2 by the Office of the Assistant Secretary for Veteran's Employment and Training (OASVET), which noted that veterans' employment program regulations under JTPA Title IV-C now are located at 20 CFR part 1005. See 54 FR 39352, 39354 (September 26, 1989). This correction document reflects that OASVET amendment to 20 CFR 626.2.

EFFECTIVE DATE: July 1, 1990.

FOR FURTHER INFORMATION CONTACT:
Mr. Timothy F. Sullivan at (202) 535-
0556 (this is not a toll-free number).

Signed at Washington, DC, this 22 day of
June, 1990.

Roberts T. Jones,
Assistant Secretary for Employment and
Training.

The following correction is made in FR Doc. 90-7737, the final rule redesignating and revising regulations for the Job Corps Program under Job Training Partnership Act Title IV-B and removing Comprehensive Employment and Training Act regulations, published in the Federal Register on April 6, 1990, (55 FR 12992).

On page 12996, first column, the amendment to 20 CFR 626.2, which reads:

§ 626.2 [Amended]

1. Section 626.2 is amended by deleting from paragraph (a) the phrase "with the exception of the Job Corps regulations which are set forth in part 684 of title 20."

is revised to read as follows:

§ 626.2 [Amended]

1. Section 626.2 is amended by removing from paragraph (a) the phrase "with the exceptions of the Job Corps regulations which are set forth at part 684 of title 20, chapter V, and the" and adding in lieu thereof the phrase "with the exception of the".

[FR Doc. 90-15238 Filed 6-28-90; 8:45 am]

BILLING CODE 4510-30-M

**DEPARTMENT OF HEALTH AND
HUMAN SERVICES**

Food and Drug Administration

21 CFR Parts 510 and 522

**Animal Drugs, Feeds, and Related
Products; Arsenamide Sodium**

AGENCY: Food and Drug Administration,
HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to remove those portions of the regulations reflecting approval of a new animal drug application (NADA) held by Solvay Animal Health, Inc. The NADA provides for the use of thiacetarsamide (arsenamide) sodium aqueous injection for treating canine heartworm disease. In a notice published elsewhere in this issue of the Federal Register, FDA is withdrawing approval of the NADA.

EFFECTIVE DATE: July 9, 1990.

FOR FURTHER INFORMATION CONTACT:
Mohammad I. Sharar, Center for
Veterinary Medicine (HFV-216), Food
and Drug Administration, 5600 Fishers
Lane, Rockville, MD 20857, 301-443-
4093.

SUPPLEMENTARY INFORMATION: In a notice published elsewhere in this issue of the Federal Register, FDA is withdrawing approval of Solvay Animal Health, Inc.'s, NADA 39-770, which provides for the use of thiacetarsamide (arsenamide) sodium aqueous injection for treating canine heartworm disease. The NADA was formerly held by Fromm Laboratories, Inc. By letter of October 6, 1989, Solvay Animal Health, Inc., on behalf of the sponsor of record, Fromm Laboratories, Inc., requested withdrawal of approval of the NADA because the product is no longer produced or

marketed. Because Fromm Laboratories, Inc., is no longer the sponsor of any approved NADA's, 21 CFR 510.600 (c)(1) and (c)(2) are amended to remove the entries for Fromm Laboratories, Inc. FDA is also amending the regulations to remove that portion of 21 CFR 522.144(c) which reflects the approval.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 522

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510 and 522 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 512, 701, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 376).

§ 510.600 [Amended]

2. Section 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in paragraph (c)(1) by removing the entry for "Fromm Laboratories, Inc.," and in paragraph (c)(2) by removing the entry for "020112".

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

3. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

4. Section 522.144 is amended by revising paragraph (c) to read as follows:

§ 522.144 Arsenamide sodium aqueous injection.

* * *

(c) *Sponsor*. See No. 050604 in § 510.600(c) of this chapter.

* * *

Dated: June 19, 1990

Gerald B. Guest,

Director, Center for Veterinary Medicine,
[FR Doc. 90-15222 Filed 6-28-90; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs Not Subject to Certification; Enrofloxacin Injectable Solution

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Mobay Corp., Animal Health Division. The NADA provides for the use of enrofloxacin solution for the treatment of susceptible bacterial infections in dogs.

EFFECTIVE DATE: June 29, 1990.

FOR FURTHER INFORMATION CONTACT: Sandra K. Woods, Center for Veterinary Medicine (HFV-114), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3420.

SUPPLEMENTARY INFORMATION: Mobay Corp., Animal Health Division, P.O. Box 390, Shawnee Mission, KS 66201, is the sponsor of NADA 140-913 which currently provides for the intramuscular use of Baytril® (enrofloxacin) Antibacterial Injectable Solution. The product is used to treat susceptible bacterial dermal, respiratory, and urinary tract infections (cystitis) of dogs. The NADA is approved as of May 4, 1990, and the regulations are amended by adding new § 522.812 to reflect the approval. The basis for approval is discussed in the freedom of information summary.

Under section 512(c)(2)(F)(ii) of the Generic Animal Drug and Patent Term Restoration Act of 1988 (21 U.S.C. 360b(c)(2)(F)(ii)), this approval qualifies for 3 years of marketing exclusivity beginning May 4, 1990, because new clinical or field investigations were required.

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has carefully considered the potential environmental effects of

this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an abbreviated environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 522

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 522 is amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

2. New § 522.812 is added to read as follows:

§ 522.812 Enrofloxacin solution.

(a) *Specifications*. Each milliliter of sterile aqueous solution contains 22.7 milligrams of enrofloxacin.

(b) *Sponsor*. See No. 000859 in § 510.600(c) of this chapter.

(c) *Conditions of use*—(1) *Amount*. 2.5 milligrams per kilogram (1.13 milligrams per pound) of body weight as an initial dose only.

(2) *Indications for use*. Dogs for treatment of the following bacterial infections: dermal infections (wounds and abscesses) caused by susceptible strains of *Escherichia coli*, *Klebsiella pneumoniae*, *Proteus mirabilis*, and *Staphylococcus aureus*; respiratory infections (pneumonia, tonsillitis, rhinitis) caused by susceptible strains of *Escherichia coli* and *Staphylococcus aureus*; and urinary cystitis caused by susceptible strains of *Escherichia coli*, *Proteus mirabilis*, and *Staphylococcus aureus*.

(3) *Limitations*. As a single, intramuscular, initial dose followed by use of tablets twice daily for 2 to 3 days beyond cessation of clinical signs to a maximum of 10 days. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Dated: June 25, 1990.

Richard H. Teske,
Acting Director, Center for Veterinary
Medicine.
[FR Doc. 90-15223 Filed 6-28-90; 8:45 am]
BILLING CODE 4160-01-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1601

Procedural Regulations; Correction

AGENCY: Equal Employment Opportunity Commission.

ACTION: Correction and technical amendment of final rule.

SUMMARY: The Equal Employment Opportunity Commission has amended its regulations to reflect the change of its Headquarters office address from 2401 E Street NW., Washington, DC 20507 to 1801 L Street NW., Washington, DC 20507, and the change of its Washington, DC field office from the Washington Area Office to the Washington Field Office. Included in the amendments was an updated list of all the field offices, as found in 29 CFR 1610.4(c). The Commission also has amended 29 CFR 1601.74 by adding footnote 2 regarding the Arlington County (VA) Human Relations Commission. The Commission is making corrections to these amendments as they were published in the *Federal Register*.

EFFECTIVE DATE: June 29, 1990.

FOR FURTHER INFORMATION CONTACT: Nicholas M. Inzeo, Assistant Legal Counsel, or Wendy L. Adams, Staff Attorney, at (202) 663-4669.

For the Commission.

Evan J. Kemp, Jr.,
Chairman.

Accordingly, 29 CFR part 1601 is amended as follows:

PART 1601—PROCEDURAL REGULATIONS

1. The authority citation for part 1601 continues to read:

Authority: 42 U.S.C. 2000e to 2000e-17.

2. Amendment of part 1601 published August 4, 1989 (54 FR 32061) is corrected by adding amendment 9a. to read as follows:

9a. Remove "Directors, Regional Programs" and insert "Directors, Field Management Programs" throughout this part, where it appears one or more times in each of the following sections:

1601.18(f)

1601.19(b)(2)

§ 1601.74 [Corrected]

3. Amendment of Section 1601.74 published September 20, 1989 (54 FR 38671) is corrected as follows:

In footnote 2, and redesignated footnotes 3., 4, 5, 9 and 13, after "pursuant to 29 CFR", remove "1601.71(3)" and insert "1601.71(b)".

§ 1601.74 [Amended]

4. In addition § 1601.74(a) is amended as follows:

Footnote "12" is renumbered footnote "11".

Footnote "13" is renumbered footnote "12".

[FR Doc. 90-15263 Filed 6-28-90; 8:45 am]

BILLING CODE 6570-06-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD1 90-056]

Special Local Regulations: 1990 Boston J-Class Regatta, Boston, MA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for the 1990 Boston J-Class Regatta, a sailboat race to be held in Massachusetts Bay off of Nantasket Beach. This event will be held from 8 a.m. to 5 p.m. on June 30, 1990. The event will begin with the J-Class sailing vessels parading out of Boston Harbor to the race course. Upon completion of the race the J-Class sailing vessels will parade back into Boston Harbor. If weather conditions preclude racing on June 30th, the regulations will be in effect on July 1, 1990 from 8 a.m. to 5 p.m. The regulations are needed to provide for the safety of life on navigable waters during the event.

EFFECTIVE DATE: This temporary regulation becomes effective on June 30, 1990 from 8 a.m. to 5 p.m. In the event of inclement weather, these regulations will be in effect on July 1, 1990 from 8 a.m. to 5 p.m.

FOR FURTHER INFORMATION CONTACT: Ensign Leslie J. Penney, U.S. Coast Guard, (617) 223-8310.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published for these regulations and good cause exists for making them effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impracticable. The application to hold the event was not received by this office until June 5, 1990 and there was not

sufficient time remaining to publish proposed rules in advance of the event or to provide for a delayed effective date.

Drafting Information

The drafters of this regulation are Ensign L.J. Penney, U.S. Coast Guard, Project Officer, Boating Safety Office and Captain R.A. Brunell, U.S. Coast Guard, Project Attorney, First Coast Guard District Legal Office.

Discussion of Regulation

The 1990 Boston J-Class Sailing Regatta consists of a parade of two J-Class sailing vessels from Boston Harbor out to the race course in Massachusetts Bay off of Nantasket Beach. Upon completion of the race the two J-Class sailing vessels will parade back into Boston Harbor. Regulated areas will be the race course and a 200 yard area around each J-Class sailing vessel for the duration of the event. No vessel other than participants or those vessels authorized by either the sponsor or the Coast Guard Patrol Commander shall enter the regulated areas. The regulated areas will be patrolled by the Coast Guard, Coast Guard Auxiliary, sponsor provided patrols and state and local law enforcement officials.

Economic Assessment and Certification

The regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and non-significant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. The Coast Guard certifies that this rule will not, if promulgated have significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Regulations

In consideration of the foregoing, part 100 of title 33, Code of Federal Regulations is amended as follows:

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A temporary § 100.35-01-02T is added to read as follows:

§ 100.35-01-02T 1990 Boston J-Class Sailing Regatta, Boston, MA

(a) *Regulated Area.* The race course is a square area in Massachusetts Bay off

of Nantasket Beach and bounded by the following:

Point 1: Longitude 42-20.7 North, Latitude 070-44.8 West

Point 2: Longitude 42-20.7 North, Latitude 070-49.0 West

Point 3: Longitude 42-17.7 North, Latitude 070-49.0 West

Point 4: Longitude 42-17.7 North, Latitude 070-44.8 West

The area two hundred yards around each J-Class sailing vessel is also a regulated area for the duration of the event.

(b) *Special Local Regulations.* (1) The regulated area shall be closed to all vessel traffic during the effective period, except as may be allowed by the Coast Guard Patrol Commander.

(2) No person or vessel shall enter or remain in the regulated area unless participating in or authorized by the event sponsor or Coast Guard patrol personnel.

(3) All race committee vessels will be identified by either a large yellow pennant or a blue triangular flag with a white stripe.

(4) A yellow race mark buoy "ZZ" will be set at 12 p.m. on June 29, 1990 in position 42-20.5N 070-45.12W. The buoy will be removed at approximately 4 p.m. June 30, 1990 after the race has been completed.

(5) The parade of the J-Class sailing vessels out of Boston Harbor will commence at 9:30 a.m. The vessels should arrive at the race course at 11:30 a.m. and should complete the race by 3:30 p.m. The parade back into Boston Harbor should conclude by 5 p.m.

(6) The Patrol Commander reserves the right to cancel the race in its entirety or to suspend the race for safety violations at any time including during the race.

(7) All persons and vessels shall comply with the instructions of U.S. Coast Guard patrol personnel. Upon hearing five or more blasts from a U.S. Coast Guard vessel, the operator of a vessel shall stop immediately and proceed as directed. U.S. Coast Guard patrol personnel include commissioned, warrant and petty officers of the Coast Guard. Members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation and other applicable laws.

(c) *Effective dates:* This regulation will be effective from 8 a.m. to 5 p.m. on June 30, 1990. In case of inclement weather this regulation will be effective from 8 a.m. to 5 p.m. on July 1, 1990.

Dated: June 19, 1990.

R.I. Rybacki,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 90-15117 Filed 6-2-90; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 165

[COTP CHARLESTON Regulation 90-52]

Safety Zone Regulations; Ashley River, Charleston, SC

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a safety zone around the river frontage of Brittlebank Park across the width of the Ashley River. The center of the zone is Latitude 32°-47.2' N Longitude 79°-57.8' W. A fireworks display will be launched from this center point out over the river. The zone is needed to protect vessels in the vicinity from the safety hazard associated with the storage, preparation, and launching of the fireworks. Entry into this zone is prohibited unless authorized by the Captain of the Port, Charleston, SC.

EFFECTIVE DATES: This regulation becomes effective at 8 p.m. e.d.t. July 4, 1990. It terminates at the conclusion of the fireworks display at approximately 10:30 p.m. July 4, 1990, unless sooner terminated by the Captain of the Port.

FOR FURTHER INFORMATION CONTACT: LT Steven J. Boyle, Port Operations Officer, U.S. Coast Guard Marine Safety Office, 196 Tradd Street, Charleston, SC 29401-1899, (803) 724-7689.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rule making (NPRM) was not published for this regulation. Publishing an NPRM would be contrary to the public interest since immediate action is needed to prevent the exposure of vessels to the hazard of the storage, preparation, and launching of fireworks in the area.

Drafting Information

The drafters of this regulation are LT Steven J. Boyle project officer for the Captain of the Port, and LT Genelle Tanos, project attorney, Seventh Coast Guard District.

Discussion of Regulation

The circumstances requiring this regulation will occur on July 4, 1990, when the organizers of the 1990 Festival of the Fourth sponsor a fireworks

display as part of the finale of the one day festival. A safety zone is needed to prevent damage to vessels or injury to personnel from falling fireworks debris and to prevent the accidental discharge of the fireworks prior to their launching. The fireworks will be launched from a barge in the Ashley River.

This regulation is issued pursuant to 33 U.S.C 1225 and 1231 as set out in the authority citation for all of part 165.

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 and it has been determined that the proposed rule making does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water).

Security measures, Vessels, Waterways.

Regulation

In consideration of the foregoing, subpart C of part 165 of title 33, Code of Federal Regulations, is amended as follows:

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 33 CFR 160.5

2. A new section number 165.T0752 is added to read as follows:

§ 165.T0752 Safety Zone, Ashley River, Charleston, South Carolina.

(a) *Location.* The following area is a safety zone: An area in the Ashley River across its entire width along the river frontage of Brittlebank Park from the upper/northern U.S. highway 17 Bascule Bridge to red run buoy "6", centering at Latitude 32°47.2' N Longitude 79°57.8' W. The fireworks will be launched from a barge moored in the Ashley River.

(b) *Effective Date.* The safety zone becomes effective on July 4, 1990, at 8 p.m. e.d.t. It terminates at the conclusion of the fireworks display at approximately 10:30 p.m. e.d.t., on July 4, 1990, unless sooner terminated by the Captain of the Port.

(c) *Regulation.* In accordance with the general regulations in § 165.23, entry into this zone is prohibited unless authorized by the Captain of the Port, Charleston, South Carolina.

Dated: June 22, 1990.

R.L. Storch, Jr.,

Captain, U.S. Coast Guard, Captain of the Port, Charleston, South Carolina.

[FR Doc. 90-15145 Filed 6-28-90; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3789-9]

Approval and Promulgation of Air Quality Implementation Plans; Oklahoma; Excess Emission and Malfunction Reporting Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This notice approves amendments to the Oklahoma Air Pollution Control Regulation (OAPCR) 1.5 "Excess Emission and Malfunction Reporting Requirements" for incorporation into the Federally approved State Implementation Plan (SIP). One of the amendments makes releases reportable when the release results in an excess emission. The other amendments are administrative in nature. EPA is therefore granting approval. The intended effect of this action is approve the revisions for incorporation into the federally approved SIP.

EFFECTIVE DATE: This action will become effective on August 28, 1990, unless notice is received by July 30, 1990, that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Written comments on this action should be addressed to Mr. Thomas H. Diggs, Chief, Planning Section of the EPA Region 6, Air Programs Branch (address below). Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency,
Region 6, Air Programs Branch (6T-AP),
1445 Ross Avenue, Dallas, Texas 75202-2733.

Public Information Reference Unit,
Environmental Protection Agency, 401 M
Street SW., Washington, DC 20460.
Oklahoma State Department of Health, Air
Quality Service, 1000 Northeast 10th Street,
Oklahoma City, Oklahoma 73152.

FOR FURTHER INFORMATION CONTACT:
Gregg Guthrie, telephone (214) 655-7214
or (FTS) 255-7214.

SUPPLEMENTARY INFORMATION:

Background

Originally on February 8, 1983, the Governor of Oklahoma submitted the SIP revision OAPCR 1.5 "Reports Required: Excess Emissions During Startup, Shutdown and Malfunction of Equipment" as revised on June 1, 1981. EPA reviewed the State's submittal in accordance with the criteria established by the EPA policy memorandum dated September 28, 1982 "Policy on Excess Emissions During Startup, Shutdown, Maintenance and Malfunction" and the clarification memorandum dated February 15, 1983. EPA proposed approval of OAPCR 1.5 on October 12, 1983, at 43 FR 43692. EPA approved OAPCR 1.5 on January 25, 1984, at 40 FR 3084.

On May 8, 1989, the Governor of Oklahoma submitted, after adequate notice and public hearing, revisions to the Federally approved OAPCR 1.5. The changes to OAPCR 1.5 may be summarized as follows:

1. The revision changed the title of OAPCR 1.5 from "Reports Required: Excess Emissions During Startup, Shutdown and Malfunction of Equipment" to "Excess Emission and Malfunction Reporting Requirements".
 2. Section 1.5(a)(1) was amended to more clearly identify the purpose of the regulation.
 3. Section 1.5(b)(1)(B) was amended by deleting the words "on process" from the definition of malfunction.
 4. Section 1.5(b)(1)(E) was added to define the term "release" as any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, dumping, or disposing into the environment of any air contaminant which becomes, or may become, airborne.
 5. The title of section 1.5(c) was changed from "Notification Requirements" to "General Requirements".
 6. Section 1.5(c)(1) has the following sentence added: "All excess emissions shall be reported as herein provided".
 7. Section 1.5(e)(1) was amended to add the term "release" to the malfunction activities which are required to be reported to the Air Quality Service.
 8. Section 1.5(e)(2) was amended by deleting the phrase, "of the malfunction", from the first sentence.
- EPA reviewed the changes to OAPCR 1.5 and views all of them with the exception of the definition of "release" as administrative in nature. EPA has

determined that the administrative revisions plus the definition of "release" will not interfere with the purpose and intent of OAPCR 1.5 and EPA's original approval of January 25, 1984, at 40 FR 3084. EPA is therefore approving the amendments to OAPCR 1.5 "Excess Emission and Malfunction Reporting Requirements".

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action will be effective (insert 60 days from the date of publication) unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted.

If such notice is received, this action will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective August 28, 1990.

Final Action

The EPA is today approving the amendments to OAPCR 1.5 "Excess Emission and Malfunction Reporting Requirements" as adopted June 23, 1988 and effective March 11, 1989.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under 5 U.S.C. section 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709)

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214-2225). On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of Section 3 of Executive Order 12291 for a period of two years.

Under Section 307(b)(1) of the Act, petitions for judicial review of this

action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from date of publication). This action may not be challenged later in proceedings to enforce its requirements (See 307(b)(2)).

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and Recordkeeping requirements, Sulfur oxides.

Authority: 42 U.S.C. 7401-7642.

Note: Incorporation by reference of the State Implementation Plan for the State of Oklahoma was approved by the Director of the Federal Register on July 1, 1982.

Dated: June 13, 1990.

Robert E. Layton, Jr.,
Regional Administrator.

40 CFR part 52, subpart LL, is amended as follows:

PART 52—[AMENDED]

Subpart LL—Oklahoma

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7642.

§ 52.1920 [Amended]

2. Section 52.1920 is amended by adding paragraph (c)(37) to read as follows:

* * * * *

(c) * * *

(37) On May 8, 1989, the Governor submitted Oklahoma Air Pollution Control Regulation 1.5 "Excess Emission and Malfunction Reporting Requirements". This regulation was adopted by the Oklahoma Board of Health on June 23, 1988, and approved by the Oklahoma Legislature on February 24, 1989. The regulation became effective on March 11, 1989.

(i) Incorporation by reference.

(A) Revisions to Oklahoma Air Pollution Control Regulation 1.5 "Excess Emission and Malfunction Reporting Requirements", OAPCR 1.5 title change, § 1.5(a)(1), § 1.5(b)(1)(B), § 1.5(b)(1)(E), § 1.5(c), title, § 1.5(c)(1), § 1.5(e)(1), and § 1.5(e)(2), as adopted by the Oklahoma Board of Health on June 23, 1988, and approved by the Oklahoma Legislature on February 24, 1989.

[FR Doc. 90-15204 Filed 6-28-90; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[Region II Docket No. 89; FRL-3760-2]

Approval and Promulgation of Implementation Plans; Revision to the State of New Jersey Implementation Plan for Ozone

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: This notice announces that the Environmental Protection Agency is approving a revision to the New Jersey State Implementation Plan (SIP) for ozone. This revision was prepared by the New Jersey Department of Environmental Protection pursuant to a SIP commitment to implement appropriate actions in order to reduce statewide ozone levels as required under Section 110 and Part D of the Clean Air Act. Today's notice incorporates into the New Jersey SIP a new regulation, title 7, chapter 26, subchapter 2A, "Additional, Specific Disposal Regulations for Sanitary Landfills," which will reduce emissions of volatile organic compounds by regulating the emission of gases from all new landfills and from many existing landfills.

EFFECTIVE DATES: This action will be effective August 28, 1990 unless notice is received within 30 days of publication that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: All comments should be addressed to:

William J. Muszynski, P.E., Acting Regional Administrator, Environmental Protection Agency, 26 Federal Plaza, New York, New York 10278.

Copies of the SIP revision are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Air Programs Branch, Room 1005, 26 Federal Plaza, New York, New York 10278.

New Jersey Department of Environmental Protection, Division of Environmental Quality, 401 East State Street, Trenton, New Jersey 08625.

Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency, Room 1005, 26 Federal Plaza, New York, New York 10278, (212) 264-2517.

SUPPLEMENTARY INFORMATION:

Background

In its most recent comprehensive State Implementation Plan (SIP) revision for ozone, which was submitted to the Environmental Protection Agency (EPA) on January 18, 1983 and approved by EPA on November 9, 1983 (48 FR 25173), the State of New Jersey demonstrated that the emission reductions achievable from the implementation of reasonably available control measures were not sufficiently large to attain the ozone standard. Therefore, the State committed to adopt regulations for several control measures that it described as "extraordinary" in order to provide the volatile organic compound (VOC) emission reductions needed for the attainment of the ozone standard. This notice addresses the measures "VOC Emissions from Landfills."

The State Submittal

On October 13, 1987, the State of New Jersey submitted to EPA an adopted regulation, title 7, chapter 26, subchapter 2A of the New Jersey Administrative Code (N.J.A.C. 7:26-2A), "Additional, Specific Disposal Regulations for Sanitary Landfills," effective June 1, 1987. This regulation, which is the subject of today's notice, gives the New Jersey Department of Environmental Protection (NJDEP) the authority to review and regulate, if necessary, gas emissions from all new sanitary landfills and from many existing sanitary landfills. A sanitary landfill is a solid waste facility at which non-hazardous waste is deposited on or into the land as fill for the purpose of permanent disposal or storage for a period of time exceeding six months.

The decomposition of organic materials in a sanitary landfill results in the generation of gaseous products including carbon dioxide, methane, and smaller quantities of nonmethane VOCs. Nonmethane VOCs are precursors in the formation of ozone. Venting wells have been used as a means to vent into the atmosphere these gases, which have long been associated with the hazards of spontaneous explosion and asphyxiation of workers at landfill sites. Such vents are already required by the NJDEP under its Division of Waste Management's rules (N.J.A.C. 7:26-2.9, effective March 7, 1983) pertaining to the "Closure and Post-Closure Care of Sanitary Landfills." Subchapter 2A would require that the VOC fraction of this landfill gas be controlled, a measure that will reduce statewide VOC emissions by approximately five tons per day.

Under subchapter 2A, all new or expanding landfills must be designed and constructed with gas venting wells to prevent the accumulation of methane gas. The exact number of wells required at each landfill site will be determined through subsurface gas flow modeling, which is subject to NJDEP review. Controls would be required on any well emitting VOCs at a rate in excess of 3.5 pounds per hour, a limit derived from the exclusion rate in N.J.A.C. 7:27-16.6, "Control and Prohibition of Air Pollution by VOS." These controls which would be permitted in accordance with the rules and regulations of the NJDEP (N.J.A.C. 7:27-8, "Permits and Certificates"), must reduce the VOC emissions by at least 95 percent with the efficiency of the system being determined by sampling and analyzing the landfill gas for VOCs prior to and following processing by the control system.

Existing landfills, either opened or closed, which the NJDEP determine to be harmful to the environment, must submit, within 90 days of notification by the NJDEP, designs for a control system to meet the emission standards set forth in Subchapter 2A. Construction of the system must begin within 90 days of NJDEP approval and full compliance must be achieved within one year.

Finding

EPA finds that the adoption of Subchapter 2A meets the commitment that was made by New Jersey in its SIP. The VOC reductions associated with this regulation are necessary for the State's demonstration of attainment of the ozone standard. However, it is important to note that EPA is considering the development of new source performance standards for air emissions from sanitary landfills. The standards being considered for a number of different gas collection and control techniques would require VOC emissions to be reduced by 98 percent as opposed to the minimum reduction of 95 percent required by the State.

Conclusion

EPA finds that subchapter 2A of chapter 26 of the N.J.A.C. adequately fulfills the SIP commitment made by the State.

This notice is issued as required by section 110 of the Clean Air Act, as amended. The Administrator's decision regarding the approval of this plan revision is based on its meeting the requirements of section 110 and part D of the Clean Air Act and 40 CFR part 51.

EPA is publishing this SIP revision request without prior proposal because EPA views this as a noncontroversial amendment and anticipates no adverse comments. This action will be effective August 28, 1990 unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted.

If such notice is received, this action will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If so such comments are received, the public is advised that this action will be effective 60 days from today.

Under 5 U.S.C. section 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit within 60 days from the date of publication. This action may not be challenged later in proceedings to enforce its requirements (see 307(b)(2)).

List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbons, Ozone, Incorporation by reference.

Note: Incorporation by Reference of the State Implementation Plan for the State of New Jersey was approved by the Director of the Federal Register on July 1, 1982.

Dated: October 4, 1989.

William K. Reilly,

Administrator, Environmental Protection Agency.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40, chapter I, subchapter C, part 52, Code of Federal Regulations is amended as follows:

Subpart FF—New Jersey

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7642.

2. Section 52.1570 is amended by adding new paragraph (c)(44) to read as follows:

§ 52.1570 Identification of Plan.

* * * * *

(c) * * *

* * * * *

(44) A revision to the State Implementation Plan for Ozone submitted on October 13, 1987 by the New Jersey Department of Environmental Protection.

(i) Incorporation by reference:

Subchapter 2A of Chapter 26, Title 7 of the New Jersey Administrative Code, "Additional, Specific Disposal Regulations for Sanitary Landfills," effective June 1, 1987.

(ii) Additional materials:

New Jersey Department of Environmental Protection memorandum on landfill gas emissions and control, dated October 7, 1987.

3. Section 52.1605 is amended by adding new entries for title 7, chapter 26, subchapter 2A as follows:

§ 52.1605 EPA—approved New Jersey regulations.

State regulation	State effective date	EPA approved date	Comments
Title 7, Chapter 26 Subchapter 2A, "Additional, Specific Disposal Regulations for Sanitary Landfills."	June 1, 1987		[Date and citation of this Federal Register]

[FR Doc. 90-15262 Filed 6-28-90; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[FRL-3749-9; EPA Docket No. AMO23 DE]

Approval and Promulgation of Implementation Plan; Delaware; Stack Height Regulation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Delaware. The revision consists of amendments to Regulation No. XXVII, for Stack Height and Regulation No. XXV, Requirements for Preconstruction Review. EPA has reviewed this revision and has concluded that it conforms to 40 CFR part 51, including the July 8, 1985 stack height amendments (50 FR 27906). EPA takes this action in accordance with section 110 of the Clean Air Act.

EFFECTIVE DATE: This rule will become effective on July 30, 1990.

ADDRESSES: Copies of the submittal are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency,
Region III, Air, Toxics and Radiation
Management Division, 841 Chestnut
Building, Philadelphia, PA 19107, Attn: Ms.
Donna J. Abrams (3AM11)

Delaware Department of Natural Resources
and Environmental Control, Division of
Environmental Control, Air Resources
Section, 89 Kings Highway, P.O. Box 1401,
Dover, Delaware 19903, Attn: Mr. Robert R.
French

FOR FURTHER INFORMATION CONTACT:
Ms. Kelly A. Yost (3AM11) at the EPA
Region III address above, or call (215)
597-2746. The commercial and the FTS
numbers are the same.

SUPPLEMENTARY INFORMATION: On
September 30, 1987 (52 FR 36593), EPA
published a Notice of Proposed
Rulemaking (NPR) for a revision to the
Delaware State Implementation Plan
(SIP). The NPR proposed to amend the
State's stack height regulations to

conform to the Federal stack height
regulations as revised July 8, 1985 (50 FR
27892).

A description of the revision was
provided in the NPR and will not be
restated here. As discussed in the NPR,
the State submittal did not include
definitions for "emission limitation" and
"emission standard". EPA proposed
approval with the condition that
Delaware adopt definitions for these
terms and submit them to EPA prior to
final rulemaking. The State committed to
amending its definitions to conform with
EPA's requirements. The State adopted
EPA's definitions for "emission
limitation" and "emission standard" as
found in 40 CFR 51.100(z) (51 FR 40656),
and submitted them to EPA to be
included in the State's stack height SIP
revision. The State held a public hearing
on November 4, 1988, on the
incorporation of EPA's 40 CFR 51.100(z)
definitions for "emissions limitations"
and "emissions standards". This
revision to State Regulation XXVII,
section 2, was then submitted to EPA on
December 21, 1988, as part of the
Delaware Order Number 89-A-5. No
public comments were submitted during
the State's adoption process or EPA's
NPR.

Final Action: EPA approves the
amendments to Regulation No. XXVII,
for Stack Height and Regulation No.
XXV, Requirements for Preconstruction
Review, as revisions to the Delaware
SIP. These revisions were submitted by
the State of Delaware on March 6, 1987,
and December 21, 1988. Nothing in this
action should be construed as permitting
or allowing or establishing a precedent
for any future request for revision to any
SIP. Each request for revision to the SIP
shall be considered separately in light of
specific technical, economic and
environmental factors, and in relation to
relevant statutory and regulatory
requirements. EPA has reviewed this
amendment and believes there will be
no adverse effects on air quality if
approved.

The Office of Management and Budget
has exempted this rule from the
requirements of section 3 of Executive
Order 12291.

Under section 307(b)(1) of the Act,
petitions for judicial review of this
action must be filed in the United States

Court of Appeals for the appropriate
circuit by August 28, 1990. This Action
may not be challenged later in
proceedings to enforce its requirements.
(See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by
reference, Particulate matter, and Sulfur
oxides.

Note: Incorporation by reference of the
Implementation Plan for the State of
Delaware was approved by the Director of
the Federal Register on July 1, 1982.

Dated: February 28, 1990.

Steve R. Wasserburg,
Acting Regional Administrator.

PART 52—[AMENDED]

Subpart I—Delaware

Part 52 of title 40, Code of Federal
Regulations is revised as follows:

1. The authority citation for part 52
continues to read as follows:

Authority: 42 U.S.C. 7401-7642.

2. Section 52.420 is amended by
adding paragraph (c) (39) as follows:

§ 52.420 Identification of plan.

(c) * * *

(39) Revisions to the State
Implementation Plan were submitted by
the Delaware Department of Natural
Resources and Environmental Control
on March 6, 1987 (Secretary's Order No.
87-A-2). Revisions to the State
Implementation Plan submitted by the
Delaware Department of Natural
Resources and Environmental Control
on March 21, 1988 (Secretary's Order
No. 89-A-5).

(i) Incorporation by reference.

(A) Letter received on March 6, 1987,
from the Delaware Department of
Natural Resources and Environmental
Control submitting revisions to the State
Implementation Plan for EPA approval
(portions of Secretary Order No. 87-A-
2).

(B) Letter dated December 21, 1988,
from the Delaware Department of
Natural Resources and Environmental
Control submitting revisions to the State
Implementation Plan for EPA approval

(portions of Secretary Order No. 89-A-5).

(C) Only those portions of Secretary's Order No. 87-A-2 issued on February 18, 1987, which amend Regulation No. II, Stack Heights at sections 2.2, 2.3, 2.4, and 2.5, pertaining to the definitions of the terms excessive concentrations, nearby stack, and stack in existence; and at sections 3.1, 3.2, and 3.3, pertaining to the requirements for new and existing sources.

(D) Only those portions of Secretary's Order No. 89-A-5, issued on December 7, 1988, which amend Regulation No. XXV, Requirements for Preconstruction Review, at section 3.9(A) and Regulation No. XXVII, Stack Heights at section 2 to include definitions of the terms emission limitation and emission standard.

[FR Doc. 90-15202 Filed 6-28-90; 8:45 am]

BILLING CODE 6560-S0-M

40 CFR Part 52

[FRL-1379-6]

Approval and Promulgation of Air Quality Implementation Plans; State of Iowa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule and correction.

SUMMARY: The Iowa Department of Natural Resources has submitted revised regulations to incorporate by reference EPA's Guidelines on Air Quality Models (Revised 1986) (EPA 450/2-78-027R) and Supplement A (1987). EPA is taking final action to approve this revision to establish consistency with EPA's current requirements on air quality models. EPA is also approving a recodification of the Iowa air quality rules. At this time, EPA is correcting final rulemakings published in the Federal Register of August 15, 1989, approving the Iowa PM₁₀ State Implementation Plan revision, and the Polk County and Linn County revisions.

DATES: This action will become effective August 28, 1990, unless someone notifies EPA that they wish to make adverse or critical comments by July 30, 1990. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection at:

Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101.

Public Information Reference Unit, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Environmental Protection Division, Iowa Department of Natural Resources, Henry A. Wallace Building, 900 East Grand, Des Moines, Iowa 50319.

FOR FURTHER INFORMATION CONTACT: Wayne A. Kaiser at (913) 551-7603 (FTS 276-7603).

SUPPLEMENTARY INFORMATION: On May 7, 1990, the Iowa Department of Natural Resources submitted an amendment to chapter 22.4 (455B), "Special Requirements for Major Stationary Sources Located in Areas Designated Attainment or Unclassified (PSD)," subrule 22.4(1), which incorporates EPA's Guideline on Air Quality Models (Revised 1986) and Supplement A (1987) to satisfy EPA's modeling requirement in 40 CFR 51.166(1) and 52.21(1) and the rulemaking on the addition of Supplement A which became effective February 5, 1988.

This amendment was adopted by the Iowa Environmental Protection Commission after proper notice and public hearing (see 40 CFR 51.102) and became effective on March 14, 1990. If additional information is desired on EPA's Guideline on Air Quality Models (Revised), the reader can refer to 51 FR 33176 published September 9, 1986, and in reference to Supplement A, 53 FR 392, published January 6, 1988.

EPA is also approving the recodification of the Iowa air quality rules, which was effective on December 3, 1986. The recodification was necessary due to a major reorganization of the Iowa environmental programs and has no practical effect on the rules themselves.

EPA has not reviewed the substance of these regulations at this time, except for subrule 22.4(1) above. These rules were approved into the SIP in previous rulemakings. The EPA is now merely approving the renumbering system submitted by the state. The EPA's approval of the renumbering system, at this time, does not imply any position with respect to the approvability of the substantive rules.

Also, EPA is correcting errors in final rulemakings published in the Federal Register on August 15, 1989. In the Iowa PM₁₀ SIP revision (54 FR 33536), the wrong section number was printed in the section that identifies the regulatory text. In the Linn County revision (54 FR 33526) and the Polk County revision (54 FR 33528), the incorporation by reference material that was submitted and approved by the Office of the Federal Register was not printed correctly in the Federal Register.

ACTION: EPA takes final action to approve Iowa's revised rule 22.4(1) which pertains to air quality models as

contained in a state submittal on May 7, 1990. EPA also approves the recodification of the Iowa air quality rules.

This action has been classified as a table 3 action by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214-2225). On January 6, 1989, the Office of Management and Budget waived table 2 and 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of two years.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the U.S. Court of Appeals for the appropriate circuit by August 28, 1990. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by reference.

Note: Incorporation by reference of the State Implementation Plan for the state of Iowa was approved by the Director of the Federal Register on July 1, 1982.

Dated: June 18, 1990.

Morris Kay,

Regional Administrator.

I, Part 52 of chapter I, title 40 (40 CFR part 52) is amended as follows:

Subpart Q—Iowa

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7642.

2. Section 52.820 is amended by adding paragraph (c)(52) as follows:

§ 52.820 Identification of plan.

* * *

(c) * * *

(52) Revised chapter 22, subrule 22.4(1), submitted on May 7, 1990, incorporates by reference revised EPA Modeling Guideline Supplement A, July 1987, and recodified air quality rules chapter 20-29.

(i) Incorporation by reference:

(A) Amendment to chapter 22, "Controlling Pollution," Iowa Administrative Code, subrule 22.4(1), Effective March 14, 1990.

(B) Recodification of Iowa Administrative Code, title II—Air Quality, chapters 20–29, effective December 3, 1986.

II. EPA published three final rulemakings in the Federal Register on August 15, 1989. The following corrections are being made by publication of this notice.

On page 33528, second column, under part 52, subpart Q—Iowa, § 52.820 Identification of Plan (c)(50)(i)(A) Linn County chapter 10 Ordinance "Air Pollution Control" adopted by the Linn County Board of Supervisors on September 2, 1987, should be corrected to read:

§ 52.820 Identification of plan.

* * *

(c) * * *

(50) * * *

(i) Incorporation by reference:

(A) Linn County Chapter 10 Ordinance "Air Pollution Control" sections 10.1 (except for 10.1(50)), 10.2, 10.3, and 10.4, adopted by the Linn County Board of Supervisors on September 2, 1987.

On page 33530, second column, under part 52, subpart Q—Iowa, § 52.820 Identification of Plan (c)(49)(i)(A) Ordinance No. 28, Amendment to Polk County Board of Health Rules and Regulations, chapter V, Air Pollution, adopted by the Polk County Board of Supervisors on September 15, 1987, should be corrected to read:

§ 52.820 Identification of plan.

* * *

(c) * * *

(49) * * *

(i) Incorporation by reference:

(A) Ordinance No. 28, Amendment to Polk County Board of Health Rules and Regulations chapter V, Air Pollution, Article I, 5–1 and 5–2 (except for variance); Article II, 5–3; and Article X, 5–28 through 5.50–1 (except for 5–49 and 5–50), effective October 8, 1987.

On page 33539, second column, under part 52, subpart Q—Iowa, line 4, correct § 52.920 to § 52.820.

On page 33539, second column, under part 52, subpart Q—Iowa, line 7, correct § 52.920 Identification of plan, to § 52.820 Identification of plan.

[FR Doc. 90–15261 Filed 6–28–90; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 414

[FRL 3726–6]

Organic Chemicals, Plastics and Synthetic Fibers Category; Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is amending 40 CFR part 414 to revoke certain portions of the effluent limitations guidelines and pretreatment standards for the organic chemicals, plastics and synthetic fibers (OCPSF) manufacturing point source category. The revocation withdraws the limitations and standards for a certain set of pollutants and discharges as discussed below. All other limitations and standards contained in the rule will remain in effect. The purpose of the withdrawal is to implement a court ruling in *Chemical Manufacturers Association v. Environmental Protection Agency*, 870 F.2d 177 (5th Cir.), modified, 885 F.2d 253 (5th Cir. 1989).

EFFECTIVE DATE: This amendment was effective as of the date of the order of the court remanding the affected limitations and standards, October 10, 1989.

FOR FURTHER INFORMATION CONTACT:

George M. Jett, Project Officer, Chemicals Branch, Industrial Technology Division (WH-552), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; (202) 382–7151.

SUPPLEMENTARY INFORMATION:

I. Background

On November 5, 1987, EPA promulgated a regulation establishing effluent limitations guidelines and standards for the organic chemicals, plastics, and synthetic fibers (OCPSF) manufacturing point source category. 40 CFR part 414; 52 FR 42522. These included effluent limitations guidelines attainable by the application of the "best practicable control technology currently available" (BPT) and the "best available technology economically achievable" (BAT); pretreatment standards applicable to existing and new dischargers to publicly owned treatment works (PSES and PSNS, respectively), and new source performance standards (NSPS) attainable by the application of the

"best available demonstrated control technology".

Thirty-one separate lawsuits were filed by three industry trade associations (Chemical Manufacturers Association, Synthetic Organic Chemicals Manufacturers Association, and National Paint and Coatings Association), several dozen OCPSF companies, and one environmental interest group (Natural Resources Defense Council). The petitioners raised approximately 63 separate issues. In settlement of an issue raised by one petitioner, EPA revoked the effluent limitations and standards for bis(2-chloroisopropyl) ether. 54 FR 27351; June 29, 1989.

On March 30, 1989, the U.S. Court of Appeals for the Fifth Circuit issued a decision that upheld the regulations against all industry challenges and all but two challenges brought by NRDC. With respect to two challenges brought by NRDC, the Court remanded the regulation to EPA for further rulemaking to determine whether the rule should be made more stringent in certain respects, but left the rule in effect pending further rulemaking. *Chemical Manufacturers Association v. Environmental Protection Agency*, 870 F.2d 177 (5th Cir. 1989). The Agency has initiated technical studies to respond to the issues raised by the court's remand.

Six petitioners or groups of petitioners filed petitions for rehearing on about 16 issues. On October 10, 1989, the Court granted rehearing and remanded two parts of the regulations to EPA for further rulemaking proceedings. The first and more significant part consists of the effluent limitations for 19 of the 20 pollutants in BAT Subcategory 2 (40 CFR 414.101) that were based upon in-plant biological treatment technology. (The court left in effect the limitation for acrylonitrile that was based upon this technology.) This aspect of the remand in effect also remands the new source performance standards for these 19 pollutants for discharges that are subject to 40 CFR 414.101 limitations. In addition, it remands the existing and new source pretreatment standards for 13 pollutants that were based upon the remanded BAT Subcategory 2 limitations. The second remanded part of the regulation consists of limitations and standards for pollutants discharged from three metal-bearing waste streams that EPA had erroneously listed in part 414 appendix A.

II. Today's Revocation

In response to the Court's decision, EPA is today withdrawing the limitations and standards remanded by

the Court. All other portions of the OCPSF effluent limitations guidelines and standards remain in effect. The effect of the court's ruling and today's revocation is as follows:

1. All BPT limitations remain in effect.
2. All BAT limitations for BAT Subcategory 1 (40 CFR 414.91) remain in effect.

3. For BAT Subcategory 2 (which EPA estimates to constitute 5-10 percent of all existing direct dischargers subject to BAT) and for NSPS for discharges subject to 40 CFR 414.101, effluent limitations for 39 pollutants remain in effect. For the 19 pollutants subject to the court's remand, the BAT limitations and new source performance standards for discharges subject to 40 CFR 414.101 are withdrawn and are thus no longer in effect. BAT limitations and new source performance standards for these 19 pollutants (and any other pollutants not addressed by the OCPSF regulation) are to be established on a case-by-case basis, using best professional judgment, by the EPA and State permitting authorities. See 40 CFR 125.3(c)(2).

4. For PSES and PSNS, pretreatment standards for 34 toxic pollutants remain in effect. For the 13 pollutants subject to the court's remand, the pretreatment standards are withdrawn and are thus no longer in effect. Discharges of these 13 pollutants (and any other pollutants not addressed by the regulation) remain subject to the pretreatment standards contained in 40 CFR 403.5, including any local limits established by the publicly owned treatment works.

5. The appendix A non-complexed metal-bearing waste stream listings for tetraethyl lead and tetramethyl lead are deleted. (The appendix A listing for anti-knock fuel additives was deleted on June 29, 1989, 54 FR 27351.)

III. Effect of Today's Action on Pending Applications for Fundamentally-Different Factor (FDF) Variances

Pursuant to section 301(n) of the CWA, 33 U.S.C. 1311(n), some OCPSF dischargers have applied for FDF variances from all or portions of the BAT and PSES standards. Some of those FDF variance applications pertain in whole or in part to the remanded limitations and standards that are being withdrawn today. Because the withdrawn limitations and standards no longer are in effect, any application for an FDF variance from such withdrawn limitations and standards is now moot and will be considered by EPA to be withdrawn.

IV. Executive Order 12291

Executive Order 12291 requires EPA and other agencies to perform regulatory

analyses of major regulations. Major rules are those which impose a cost on the economy of \$100 million or more annually or have certain other economic impacts. This action is not a major rule because it merely withdraws certain requirements pursuant to a court order; thus it meets none of the criteria of a major rule as set forth in section 1(b) of the Executive Order. This rule was submitted to the Office of Management and Budget for review.

V. Regulatory Flexibility Analysis

The Regulatory Flexibility Act, 5 U.S.C. 601 et seq., requires EPA and other agencies to prepare an initial regulatory flexibility analysis for all proposed regulations that have a significant impact on a substantial number of small entities. No regulatory flexibility analysis is required, however, where the head of the Agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Based on the reasons discussed in the preceding paragraph, I hereby certify, pursuant to 5 U.S.C. 605(b), that this regulation will not have a significant impact on a substantial number of small entities.

VI. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. 3500 et seq., EPA must submit a copy of any rule that contains a collection of information requirement to the Director of the Office of Management and Budget for review and approval. This correction and revocation notice contains no additional information collection requirements, and therefore the Paperwork Reduction Act requirements are not applicable.

List of Subjects in 40 CFR Part 414

Organic chemicals manufacturing, plastics manufacturing, synthetic fibers manufacturing, water pollution control, water treatment and disposal.

Dated: June 20, 1990.

William K. Reilly,
Administrator.

For the reasons set out in the Preamble, 40 CFR part 414 is amended as set forth below.

PART 414—ORGANIC CHEMICALS, PLASTICS, AND SYNTHETIC FIBERS

40 CFR part 414 is amended as follows:

1. The authority citation for part 414 continues to read as follows:

Authority: Secs. 301, 304, 306, 307, and 501, Pub. L. 92-500, 88 Stat. 816; Pub. L. 95-217, 91 Stat. 156; Pub. L. 100-4, 101 Stat. 7 (33 U.S.C. 1311, 1314, 1316, 1317, and 1361).

§§ 414.25, 414.35, 414.45, 414.55, 414.65, 414.75, 414.85 [Amended]

2. In each of §§ 414.25, 414.35, 414.45, 414.55, 414.65, 414.75, and 414.85, the table is amended by removing the names of the following 13 pollutants:

Acenaphthene
2,4-Dimethylphenol
Fluoranthene
Naphthalene
Phenol
Bis(2-ethylhexyl) phthalate
Di-N-butyl phthalate
Diethyl phthalate
Dimethyl phthalate
Anthracene
Fluorene
Phenanthrene
Pyrene

§ 414.101 [Amended]

3. In § 414.101, the table is amended by removing the names of the following 19 pollutants:

Acenaphthene
2,4-Dimethylphenol
Fluoranthene
Naphthalene
Phenol
Bis(2-ethylhexyl) phthalate
Di-N-butyl phthalate
Diethyl phthalate
Dimethyl phthalate
Benzo(a)anthracene
Benzo(a)pyrene
3,4-Benzofluoranthene
Benzo(k)fluoranthene
Chrysene
Acenaphthylene
Anthracene
Fluorene
Phenanthrene
Pyrene

Appendix A [Amended]

4. In Part 414, appendix A, under the heading "Lead," the last two items, which read "Tetraethyl lead/Alkyl halide + sodium-lead alloy," and "Tetramethyl lead/Alkyl halide + sodium-lead alloy" are removed.

[FR Doc. 90-14904 Filed 6-28-90; 8:45 am]

BILLING CODE 8560-50-M

OFFICE OF PERSONNEL MANAGEMENT

45 CFR Part 801

Voting Rights Program

AGENCY: Office of Personnel Management.

ACTION: Final rule; correction.

SUMMARY: This document corrects a legal citation contained in final regulations establishing a new office for filing applications or complaints under the Voting Rights Act of 1965, as amended, which were published June 12, 1990 (55 FR 23884).

FOR FURTHER INFORMATION CONTACT:
Nichole Jenkins, Attorney, Office of
Personnel Management, (202) 606-1701.

Accordingly, the Office of Personnel
Management is correcting the authority
citation for part 801 to read as follows:

PART 801—VOTING RIGHTS PROGRAM

1. The authority citation for part 801
continues to read as follows:

Authority: 5 U.S.C. 1103; secs. 7, 9, 79 Stat.
440, 411 (42 U.S.C. 1973e, 1973g).

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

[FR Doc. 90-15170 Filed 6-28-90; 8:45 am]

BILLING CODE 6325-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 89-376; RM-6871]

Radio Broadcasting Services; Aitkin, MN

AGENCY: Federal Communications
Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel
232C3 to Aitkin, Minnesota, in response
to a petition filed by Upper Minnesota
Broadcasting Corporation, and modifies
the license for Station KEZZ, as
requested, to specify operation on
Channel 232C3 in lieu of Channel 232A.
Canadian concurrence has been
obtained for the allotment of Channel
232C3 at coordinates 46-36-15 and 93-
39-55.

EFFECTIVE DATE: August 13, 1990.

FOR FURTHER INFORMATION CONTACT:
Kathleen Scheuerle, Mass Media
Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a
synopsis of the Commission's Report
and Order, MM Docket No. 89-376,
adopted June 18, 1990, and released June
26, 1990. The full text of this Commission
decision is available for inspection and
copying during normal business hours in
the FCC Dockets Branch (room 230),
1919 M Street, NW., Washington, DC.
The complete text of this decision may
also be purchased from the
Commission's copy contractors,
International Transcription Service,
(202) 857-3800, 2100 M Street, NW., suite
140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73
continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM
Allotments, is amended under
Minnesota by removing Channel 232A
and adding Channel 232C3 at Aitkin.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division,
Mass Media Bureau.

[FR Doc. 90-15219 Filed 6-28-90; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 672

[Docket No. 91050-0019]

Foreign fishing; Groundfish of the Gulf of Alaska

AGENCY: National Marine Fisheries
Service (NMFS), NOAA, Commerce.

ACTION: Notice of closure.

SUMMARY: The Secretary of Commerce
(Secretary) prohibits directed fishing for
groundfish in the Gulf of Alaska with a
fishing vessel that has hook-and-line
gear attached or on board that vessel
through December 31, 1990. This action
is necessary to limit the prohibited
species catch (PSC) allowance of Pacific
halibut established for hook-and-line
gear to the amount provided for by
regulations implementing the Fishery
Management Plan for Groundfish of the
Gulf of Alaska (FMP). It is intended to
carry out the management objectives of
the North Pacific Fishery Management
Council.

DATES: Effective at 00:01, Alaska local
time (a.l.t.), July 1, 1990, until midnight,
a.l.t., December 31, 1990.

FOR FURTHER INFORMATION CONTACT:
Jessica Gharrett, Resource Management
Specialist, NMFS, 907-586-7229.

SUPPLEMENTARY INFORMATION: The
FMP, which governs groundfish fishing
in the U.S. exclusive economic zone in
the Gulf of Alaska under the Magnuson
Fishery Conservation and Management
Act, is implemented by rules appearing
at 50 CFR 611.92 and part 672. Special
consideration is given to the
conservation of Pacific halibut (halibut),
a valuable species sought in another
U.S. fishery, but caught as bycatch in the
groundfish fishery. Pacific halibut are
managed under authority of the

International Pacific Halibut
Commission; however, bycatches by
United States fishermen are controlled
through prohibited species catch (PSC)
mortality limits (50 CFR 672.20(f)). The
halibut PSC mortality limit for the Gulf
of Alaska is allocated, on a quarterly
basis, to hook-and-line gear and trawl
gear under an emergency interim rule
(55 FR 20465, May 17, 1990) as modified
(55 FR 23745, June 12, 1990). The
apportionments of the halibut PSC
mortality limits established for hook-
and-line gear and trawl gear for 1990
total 2,000 mt and 750 mt, respectively.

If, during the year, the Regional
Director determines that the catch and
resulting mortality of halibut by
operators of vessels using hook-and-line
or trawl gear will reach the quarterly
apportionment of the halibut PSC limit
established for either hook-and-line or
trawl gear, the Regional Director will
publish a notice in the Federal Register
prohibiting directed groundfish fishing
by vessels with hook-and-line or trawl
gear, as appropriate, for the remainder
of the quarter of which the PSC
apportionment applies.

The PSC limits established for hook-
and-line gear in 1990 are allocated on a
quarterly basis in the following manner:

	Hook-and-line gear Percent (PSC allocation)
January 1-March 31	20 (150 mt)
April 1-June 30	60 (450 mt)
July 1-remainder of the year	20 (150 mt)
Total	100 (750 mt)

Previously, the Regional Director
determined that the first and second
quarter mortality limit for hook-and-line
gear was reached within the second
quarter, and consequently closed that
directed groundfish fishery on May 29,
1990 (50 FR 22794, June 4, 1990). Under
the emergency interim rule
implementing the quarterly PSC limit
apportionment system (55 FR 5994;
February 21, 1990), if a quarterly
apportionment for hook-and-line or
trawl gear is exceeded, the amount by
which the quarterly apportionment is
exceeded will be deducted from the
respective PSC apportionment for the
next quarter (§ 672.20(f)(5)(iv)).

The Regional Director has determined
that the total PSC mortality limit
apportioned to the Gulf of Alaska hook-
and-line groundfish fisheries (750 mt) for
1990 has been reached. This fishery
should not reopen on July 1, because the
150 mt allocation for hook-and-line gear
that was originally intended for the
period from July 1 through December 31,

1990 has already been attained. Therefore, the Regional Director prohibits directed fishing for groundfish from vessels with hook-and-line gear attached or on board in the Gulf of Alaska from the beginning of the third quarter at 00:01 ALT July 1, 1990, through 12 midnight ALT December 31, 1990.

Classification

The total annual PSC allowance of

halibut established for hook-and-line gear has been exceeded. Unless this notice takes effect promptly, the hook-and-line groundfish fisheries will recommence on July 1, 1990, with an ensuing bycatch and wastage of halibut resource in excess of specified PSC allocations. Therefore, NOAA finds for good cause that prior opportunity for public comment on this notice is contrary to the public interest and its effective date should not be delayed. This action is taken under § 672.20 and

is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 672

Fisheries.

Authority: 16 U.S.C. 1801, *et seq.*

Dated: June 25, 1990.

Richard H. Schaefer,

Director of Office of Fisheries, Conservation and Management, National Marine Fisheries Service.

[FR Doc. 90-15107 Filed 6-25-90; 4:30 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register

Vol. 55, No. 126

Friday, June 29, 1990

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 312, 322, 327 and 381

[Docket No. 90-004P]

Imported Canadian Product: Further Implementation of the United States-Canada Free-Trade Agreement

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Food Safety and Inspection Service is proposing to amend the Federal meat and poultry products inspection regulations by exempting Canadian meat and poultry products intended to be imported into the United States from the requirements contained in parts 327 and 381 of those regulations, including the requirement that imported product be subject to reinspection by United States import inspectors. FSIS is also proposing to amend parts 327 and 381 to exempt the Canadian inspection system from various requirements applicable to other foreign countries desiring to obtain and/or maintain their eligibility to export product to the United States, and to relieve USDA officials from conducting certain review activities. FSIS is also proposing the amend part 312 of the regulations by adding a new export stamp to be applied by United States establishments to product intended for export to Canada. In addition, FSIS is proposing to amend part 322 of the regulations by waiving the requirement that an export certificate be issued and accompany product intended for export to Canada and by providing for the use of the new export stamp on product intended for export to Canada. Lastly, FSIS is proposing to amend parts 322, 327 and 381 to provide new procedures applicable to United States establishments exporting product to Canada and to Canadian establishments exporting product to the United States. These proposed provisions, if made

final, would be considered to be experimental and would be evaluated during and at the end of the experimental period to determine what form of permanent change in procedures may be appropriate. Utilization of the experimental provisions would not exceed one year's operation. Once the evaluation is complete, further notice and comment rulemaking would be undertaken to reflect any permanent change in the regulations. This proposal would further the goal of the United States-Canada Free-Trade Agreement signed by President Reagan on January 2, 1988, by reducing trade restrictions between the United States and Canada.

DATES: Comments by July 30, 1990.

ADDRESSES: Written comments to: Policy Office, Attn: Linda Carey, FSIS Hearing Clerk, room 3171, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250. Oral comments as provided by the Poultry Products Inspection Act should be directed to Ms. Patricia Stolfa at (202) 447-3473. (See also Comments under "Supplementary Information.")

FOR FURTHER INFORMATION CONTACT: Patricia Stolfa, Deputy Administrator, International Programs, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-3473.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Agency has made an initial determination that this proposed rule is not a major rule under Executive Order 12291. It will not result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Effect on Small Entities

The Agency has made an initial determination that this proposed rule may have a significant effect on a substantial number of small entities. The impact of this proposed rule is expected to be felt by those import inspection establishments located at or near the

border, for which the reinspection of Canadian product constitutes all or a majority of their business. The Agency's initial determination is that these establishments are small entities. Therefore, the Agency is developing a Regulatory Flexibility Analysis. The Analysis will be published at the same time the final rule is published.

Paperwork Reduction Act

This proposal would require that United States establishments wishing to export product to Canada and Canadian establishments wishing to export product to the United States to include certain information about each shipment on a form intended to be used jointly by Canadian and United States establishments. The form would be completed each time a shipment is ready for export and would contain the following information about each shipment: (1) Type of product, (2) number of boxes/carcasses, (3) total weight, (4) label registration or approval number, and (5) the authorization number issued by FSIS for United States shipments to Canada or the AGR number issued by Agriculture Canada for Canadian shipments to the United States. The form would accompany product to the border. If the product is Canadian product, the form would be presented to either a Canadian inspector or a Canadian Customs official. If the product is United States product, the form would be presented to either a United States inspector or a United States Customs official. These paperwork requirements will be submitted to the Office of Management and Budget under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501).

Comments

Interested persons are invited to submit written comments concerning this proposal. Written comments should be sent to the Policy Office. Please include the docket number which appears in the heading of this document. Any person desiring an opportunity for an oral presentation of views should make such request to Ms. Patricia Stolfa so that arrangements can be made for such views to be presented. A record will be made of all views orally presented. All comments submitted in response to the proposal will be available for public inspection in the

Policy Office between 9 a.m. and 4 p.m. Monday through Friday.

Background

On January 2, 1988, President Reagan signed the United States-Canada Free-Trade Agreement (Agreement).¹ Pursuant to Article 2105, the "Agreement shall enter into force on January 1, 1989, upon exchange of diplomatic notes certifying the completion of necessary legal procedures by each party." To implement the United States obligations of the Agreement, the Congress passed and President Reagan signed into law the United States-Canada Free-Trade Agreement Implementation Act of 1988, Public Law 100-449. One goal of the Agreement is to facilitate commerce between the two countries. Under certain conditions, the Agreement makes it possible for both countries to minimize inspection procedures applicable to each other's meat and poultry imports. Under the Federal Meat Inspection Act and the Poultry Products Inspection Act, the Secretary has adequate authority to implement the provisions of the Agreement by modifying the applicable regulations to permit Canadian inspection personnel to conduct reinspections required by the Acts.

In furtherance of that goal, on January 5, 1989, FSIS published an interim rule (54 FR 273), effective immediately, exempting all Canadian product imported into the United States from the requirement of stamping with the official mark of inspection. In addition, the interim rule authorized new "streamlined" reinspection procedures for product from those Canadian establishments that wished to participate in the "streamlined" inspection program. FSIS inspection officials had determined that "streamlined" inspection procedures could be offered and making requirements could be eliminated without compromising product wholesomeness. Such procedures were considered to be consistent with the provisions of the Agreement.

Recently, officials from USDA and their counterparts of Agriculture Canada reviewed the operations under the streamlined procedures for the preceding year. To continue the spirit embodied in the Agreement, the officials have agreed that changes to current import and export requirements may be advisable. Therefore, changes are being

proposed to current provisions in the regulations that would be in effect for a period not to exceed one year; these changes would be considered an experiment. After one year's operation, officials from both countries would determine what form of permanent changes could be made. The proposed changes reflect the understanding that the inspection systems of both countries are virtually identical and, as such, may permit significant modifications to current regulations.

It should be emphasized that these proposed changes are a result of the unique and special relationship between the two countries. This unique relationship is based on several factors—the fact that the countries are contiguous to each other; the open border policies in effect for many years; and the fact that there are no significant differences in animal health and meat and poultry product production and processing practices. In addition, unlike the majority of other countries' inspection systems, which provide one standard of inspection for domestic product and one for product intended for export, both Canada and the United States make no distinction between domestic and export product and apply only one standard of inspection to both. These factors present a situation which permits testing of the experimental regulations discussed below.

Concept of Equivalency Under the Free Trade Agreement

The Federal meat and poultry products inspection regulations provide that, if a foreign country's inspection system ensures compliance with requirements at least equal to all of the provisions of the Federal Meat Inspection Act and/or the Poultry Products Inspection Act, such foreign country may, if the inspection system is judged to be "at least equal to" by USDA officials, export meat and/or poultry products to the United States. The United States concept of "at least equal to" is explained in detail in the background of the final rule implementing the provisions of the Food Security Act of 1985, Public Law 99-198, which amended the Poultry Products Inspection Act (54 FR 43948). The procedures used by FSIS to ascertain whether a country's inspection program is "at least equal to" are explained in detail in the background to the final rule which added Great Britain to the list of countries eligible to have its poultry products imported into the United States (52 FR 23016).

A number of regulations applicable to inspection systems of other countries eligible to have their products imported

into the United States would not apply to Canada. These amendments would exempt the Canadian inspection system from certain requirements and procedures and would relieve USDA officials of certain review responsibilities. Parts 327 and 381 provide detailed requirements and procedures that a foreign country must meet to establish eligibility and to maintain continuing eligibility to export product to the United States; they also provide that USDA representatives perform certain activities with respect to ascertaining a country's initial eligibility or continuing its present eligibility. For example, §§ 327.2 and 381.196 require, among other things, that each foreign country yearly certify establishments as eligible to export product to the United States (9 CFR 327.2(a)(3); 381.196(a)(3)); that USDA representatives periodically review foreign countries' inspection systems in operation to assure that United States requirements are being met (9 CFR 327.2(a)(2)(iii); 381.196(a)(2)(iii)), and that the USDA take action to remove a country from the list of eligible countries under certain conditions (9 CFR 327.2(a)(4); 381.196(a)(4)). Having determined the Canadian inspection system is effectively the same as the United States inspection system, the aforementioned activities would no longer be necessary or appropriate. Therefore, sections 327.2 and 381.196 would be amended to exempt the Canadian inspection system from these specific requirements and procedures and USDA officials from review and delistment activities. However, those United States laws, regulations which apply to domestic product in commerce, i.e., that product must be wholesome, unadulterated and properly marked, labeled and packaged, would apply to Canadian product once it enters United States commerce.

Authority to Employ Experimental Regulations

Should this proposal become a final rule, the Administrator would, starting on the effective date, initiate experimentation of the amendments to the regulations described below. During the first year's operation, use of the amended regulations would be evaluated and this evaluation would be used by inspection officials in both countries to ascertain whether these regulations should be modified or remain the same. FSIS would publish, on or before the end of the year's period, a notice proposing changes to the regulations as a result of the experiment or indicating that no permanent changes are proposed.

¹ A copy of the Agreement is available for review in the office of the FSIS Hearing Clerk, room 3171, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250.

Provisions Applicable to Product Intended for Export to Canada

Once United States product is ready for export to Canada, the United States establishment would be required to telephone or fax information to the Export Coordination Division, International Programs, FSIS, Washington, DC, including the type of product to be shipped, the number of boxes or carcasses to be shipped, the weight of the product, and the Canadian label registration number. An authorization number would be issued to the exporting establishment by the Export Coordination Division. The exporting establishment would then use this number when stamping the boxes or attaching the number to the carcasses for export. The information noted above and the authorization number would be recorded on a joint form developed for use by both Canada and the United States. This joint form would accompany the product to the border. When the product reaches the border, the Canadian inspector would check the joint form and would consult the Canadian Import Control System (ICS) to verify issuance of the authorization number. If the authorization number is valid, the product will enter Canadian commerce. If the number appears not to be valid, the Canadian inspector would contact Agriculture Canada for more information, who would then consult with FSIS inspection officials. If it is determined that the number is not valid, the shipment would not be permitted to enter Canadian commerce. If no Canadian inspector is on duty, the carrier will leave the joint form with the Canadian Customs Officer, and the product will enter Canadian commerce. The Canadian inspector will later verify the validity of the authorization number. There are border points where no Canadian inspector will be stationed. At these points, the carrier will leave the joint form with the Canadian Customs Officer. These provisions could be utilized by any federally inspected United States establishment wishing to export product to Canada. That is, any federally inspected United States establishment could ship product to any place within Canada without being subject to Canadian reinspection procedures and requirements.

Under these provisions, neither an export certificate nor a health certificate would be issued. Instead, the boxes or carcasses would be marked with a special, newly developed export stamp containing the authorizing number discussed above for use only on product intended for export to Canada. Therefore, part 322 would be amended

to waive the requirement that an export certificate be issued and accompany product intended for export to Canada and part 312 would be amended to provide for the special export stamp. The stamp would be amended to provide for the special export stamp. The stamp would be of the following form and would be considered an official device.



Provisions Applicable to Product Intended for Export to the U.S.

Once Canadian product is ready for export to the United States, Agriculture Canada officials would be required to contact one of three FSIS Import Field Offices (IFO) (Tacoma, WA; Boston, MA; or Detroit, MI), inform the IFO of the type of product to be shipped, the number of boxes or carcasses to be shipped, the weight of the product, the United States label approval number, and the Canadian export inspection number (AGR number) that will be stamped on the boxes or attached to the carcasses. This information would be recorded on the joint form and the joint form would accompany the product to the border. As in the case of United States product intended for export to Canada, no export certificate or health certificate would accompany the product to the United States. When the product reaches the border, the USDA inspector will check the joint form accompanying the product including the AGR number. The United States import will consult the Automated Import Information System, and if the AGR number is valid, the product will enter United States commerce. If the number appears not to be valid, FSIS inspection officials would contact Agriculture Canada officials for more information. If it is determined the number is not valid, the shipment would not be permitted to enter United States commerce. If no USDA inspector is on duty when the product arrives at the border, the carrier will leave the joint form with the U.S. Customs Officer, and the shipment will enter U.S. commerce.

The USDA inspector will later verify the AGR number. There are no border points where no United States inspector will be stationed. At these points, the carrier will leave the joint form with the United States Customs Officer. These procedures could be utilized by any inspected Canadian establishment wishing to export product to the United States. That is, any inspected Canadian establishment could ship product to any place within the United States without applying for or having the product be subject to reinspection by United States import inspectors.

Canadian inspection personnel would be required to perform reinspection in Canada of Canadian product destined for import into the United States. This would include the random reinspections for residues and species verification required by the Federal Meat Inspection Act and the Poultry Products Inspection Act.

Both Canada and the United States maintain internal review programs to assure that meat and poultry products intended for export meet the laws and regulations of the respective countries. Both countries also review plants in the other country to assure standards are maintained. If the standards are met, each country certifies individual plants as eligible to export to the other country. On occasion, plants have been reviewed that did not meet the reviewing country's standards. These plants have been delisted and therefore prohibited from exporting product to the review country. The inspection service in the reviewed country then takes action to correct the problem areas and then recertifies the plant. There currently exists a small number of plants in each country which are not permitted to export. Since both countries have procedures for reviewing their plants and have procedures for correcting problems, the Agreement will permit each country to deal with its own problems and, when necessary, prohibit exports without using the delistment process.

Therefore, for the reasons discussed in the preamble, FSIS is proposing that parts 327 and 381 of the Federal meat and poultry products inspection regulations be amended to exempt Canadian product from all current requirements in the regulations for importing meat and poultry products, except that Canadian establishments would still be required to follow current product labeling and marking requirements as contained in §§ 327.14, 327.15, 381.205 and 381.206 of the Federal meat and poultry products inspection regulations (9 CFR 327.14, 327.15, 381.205

and 381.206) to assure that United States' product requirements for additives and formulations are followed. United States establishments would also be required to follow current Canadian label approval procedures to assure that Canadian product requirements for additives and formulations are followed. Parts 327 and 381 would also be amended to exempt the Canadian inspection system from various requirements applicable to other foreign countries desiring to obtain and/or maintain eligibility to export product to the United States and to exempt USDA officials from review and delistment activities. In addition, parts 312 and 322 would be amended to provide for a new export stamp to be applied to product intended for export to Canada, and to waive the requirement that an export certificate be issued and accompany product intended for export to Canada. Lastly, parts 322, 327 and 381 would be amended to provide new requirements and procedures to be utilized by United States establishments desiring to export product to Canada and by Canadian establishments desiring to export product to the United States.

Effect of January 5, 1989, Interim Rule

The interim rule, which was published on January 5, 1989 (54 FR 273) and effective on that date, remains in effect except as modified by this proposed rule. Portions of that rule which exempted Canadian product from certain requirements should be changed by this proposal. For example, Canadian product is still exempt from product marking requirements. However, portions of the rule which provided for "streamlined" inspection procedures for participating Canadian establishments would be superseded as provided in this proposed rule.

Proposed Rule

Therefore, FSIS is proposing to amend parts 312, 322, 327 and 381 of the Federal meat and poultry products inspection regulations for a period of one year, as set forth below.

List of Subjects

9 CFR Part 312

Marks and devices; Meat inspection.

9 CFR Part 322

Exports; Meat inspection.

9 CFR Part 327

Imported products; Meat inspection.

9 CFR Part 381

Imported products; Exports; Poultry products inspection.

PART 312—OFFICIAL MARKS, DEVICES AND CERTIFICATES

1. The authority citation for part 312 would continue to read as follows:

Authority: 34 Stat. 1260, 79 Stat. 903, as amended, 81 Stat. 584, 84 Stat. 91, 438; 21 U.S.C. 71 *et seq.*, 601 *et seq.*

2. Section 312.8 would be amended by revising paragraph (a) to read as follows:

§ 312.8 Official export inspection marks, devices, and certificates.

(a)(1) The official export meat inspection mark required by part 322 of this subchapter to be applied to all product, other than product intended for export to Canada, shall be in the following form as hereinafter specified.²



(2) The official export meat inspection mark required by part 322 to be applied to all product intended for export to Canada shall be in the following form as hereinafter specified.³



(3) Any rubber stamp approved by the Administrator, in the manner provided for in part 317 of this subchapter, and bearing the official mark prescribed in

² The number "529893" is given as an example. The number of the official export certificate will be shown in lieu thereof.

³ The number "123456" is given as an example only. The authorization number issued by the Export Coordination Division, International Programs, FSIS, will be shown in lieu thereof.

this paragraph shall be an official device for the purposes of the Act.

PART 322—EXPORTS

3. The authority citation for part 322 would continue to read as follows:

Authority: 34 Stat. 1260, 79 Stat. 903, as amended, 81 Stat. 584, 84 Stat. 91, 438; 21 U.S.C. 71 *et seq.*, 601 *et seq.*

4. Section 322.1 would be amended by adding the following phrases to the end of paragraphs (a) and (b):

§ 322.1 Manner of affixing stamps and marking products for export.

(a) * * *, or in the case of product intended for export to Canada, marked with an official export stamp as shown in § 312.8(a)(2) of this subchapter bearing an authorization number issued by the Export Coordination Division, International Programs, FSIS.

(b) * * *, or in the case of product intended for export to Canada, marked with an official export stamp as shown in § 312.8(a)(2) of this subchapter bearing an authorization number issued by the Export Coordination Division, International Programs, FSIS.

5. Section 322.4 would be amended by adding the following phrase to the end of the existing text:

§ 322.4 Clearance of vessels and transportation without certificate prohibited; exceptions.

* * *, and except for product intended for export to Canada.

6. Part 322 would be amended by adding a new § 322.6 to read as follows:

§ 322.6 Provisions applicable to establishments intending to export product to Canada.

The following procedures and requirements shall be applicable to any official establishment intending to export product to Canada.

(a) When federally inspected and passed product is ready for export, the establishment shall contact the Export Coordination Division, International Programs, FSIS, shall request an authorization number, and shall provide the following information:

- (1) Type of product to be exported;
- (2) Number of boxes or carcasses to be exported;
- (3) Total weight of the product;
- (4) Canadian label registration number.

(b) The Export Coordination Division shall issue an authorization number to the establishment to cover the shipment described in paragraphs (a)(1) through (a)(4) of this section.

(c) The establishment shall stamp product intended for export with the stamp provided in § 312.8(a)(2) of this subchapter and shall include the authorization number issued as provided in paragraph (b) of this section in the body of the stamp.

(d) The establishment shall record the information provided in paragraphs (a)(1) through (a)(4) of this section and the authorization number on the joint USDA-Agriculture Canada form.

(e) The joint form shall accompany the product to the border.

(f)(1) The driver of the transport vehicle shall present the joint form to the Canadian inspector or the Customs agent stationed at the border.

(2) When there is a Canadian inspector present at the border and the authorization number is verified, or when there is no inspector present, the product shall be entered and treated as domestic product as provided in § 327.18(a).

(3) When there is a Canadian inspector present at the border and the authorization is not verified after consultation with FSIS, the product shall be refused entry.

(4) When there is no Canadian inspector present at the border, and the joint form does not accompany the product to the border, the product shall be entered.

PART 327—IMPORTED PRODUCTS

7. The authority citation for part 327 would continue to read as follows:

Authority: 38 Stat. 1280, 79 Stat. 903, as amended, 81 Stat. 584, 84 Stat. 91, 438; 21 U.S.C. 71 *et seq.*

8. Section 327.2 would be amended by adding the following phrase to the beginning of paragraph (a):

§ 327.2 Eligibility of foreign countries for importation of products into the United States

(a)(1) Except for Canada, * * *

9. Paragraph (b) of § 327.3 would be amended by adding the following phrases to the beginning of the first, second and third sentences of the paragraph:

§ 327.3 No product to be imported without compliance with applicable regulations.

(b) Except for product imported from Canada, * * *. Except for product imported from Canada and * * *. Except for product imported from Canada and * * *.

10. Paragraphs (a) and (b) of § 327.4 would be amended by adding the

following phrases to the beginning of each paragraph:

§ 327.4 Imported products; foreign certificate required.

(a) Except for product imported from Canada and as provided in § 327.16, * * *

(b) Except for product imported from Canada and as provided in § 327.16, * * *

11. Section 327.5 would be amended by revising the title and by removing paragraph (d).

§ 327.5 Importer to make application for inspection of products for entry; information required; exceptions for product imported from Canada.

12. Section 327.6 would be amended by revising the current phrase in paragraph (a)(1) and by revising paragraph (a)(2) as follows and by adding the following phrases to the beginning of paragraphs (a) (3) and (4):

§ 327.6 Products for importation; program inspection, time and place; application for approval of facilities as official import inspection establishment; refusal or withdrawal of approval; official numbers.

(a)(1) Except as provided in §§ 327.16, 327.17 and product imported from Canada, * * *

(2) Except for product imported from Canada, every lot of product shall routinely be given visual inspection by a Program import inspector for appearance and condition, and checked for certification and label compliance. Canadian inspection personnel shall conduct random reinspections of product for species verification and for residues.

(3) Except for product imported from Canada, * * *

(4) Except for product imported from Canada, * * *

13. Paragraph (a) of § 327.10 would be amended by adding the following phrase to the end of the paragraph:

§ 327.10 Samples; inspection of consignments; refusal of entry; marking.

(a) * * *, or from product imported from Canada.

14. Section 327.12 would be amended by adding the following phrases to the beginning of paragraphs (b) and (c):

§ 327.12 Foreign canned or packaged products bearing trade labels; sampling and inspection.

(b) Except for product imported from Canada, * * *

(c) Except for product imported from Canada, * * *

15. Section 327.23 would be amended by revising the section heading and by adding the following introductory text section:

§ 327.23 Compliance procedure for cured pork products offered for entry; exemption for Canadian product.

The provisions of this section do not apply to cured pork products imported from Canada.

16. Part 327 would be amended by adding a new § 327.28 to read as follows:

§ 327.28 Provisions applicable to Canadian establishments intending to export product to the United States.

(a) When Canadian inspected and passed product is ready for export, a Canadian official shall contact Agriculture Canada and shall request an AGR number.

(b) The AGR number shall be stamped on all product intended for export.

(c) The Canadian official shall include the AGR number and the following information on the joint USDA-Agriculture Canada form:

- (1) Type of product to be exported;
- (2) Number of boxes or carcasses to be exported;
- (3) Total weight of the product;
- (4) United States label approval number.

(d) The joint form shall accompany the product to the border.

(e)(1) The driver of the transport vehicle shall present the joint form to the United States import inspector or the United States Customs agent stationed at the border.

(2) When there is a United States inspector present at the border and the authorization number is verified, or when there is no inspector present, the product shall be entered and treated as domestic product as provided in § 327.18(a).

(3) When there is a United States import inspector present at the border and the authorization is not verified after consultation with Agriculture Canada, the product shall be refused entry.

(4) When there is no United States inspector present at the border, and the joint form does not accompany the product to the border, the product shall be entered.

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

17. The authority citation for part 381 continues to read as follows:

Authority: 7 U.S.C. 450; 21 U.S.C. 450-470; 801-695; 33 U.S.C. 1254; 7 CFR 2.15, 2.55.

18. Section 381.104 would be amended by redesignating the existing text as paragraph (a) and revising it and by adding new paragraphs (b) and (c) to read as follows:

§ 381.104 Official export certificates, marks and devices.

(a) The form of certificate described in § 381.106 is an official export certificate, and the mark shown below is the official mark used on outside containers to identify inspected and passed poultry products for export to countries other than Canada.*



(b) The mark shown below is the official mark used on outside containers to identify inspected and passed poultry products for export to Canada.⁵



(c) Devices used to apply such marks are official devices.

19. Part 381 would be amended by adding a new § 381.113 to subpart M to read as follows:

* The number "529893" is given as an example only. The number of the official export certificate will be shown in lieu thereof.

⁵ The number "123456" is given as an example only. The authorization number issued by the Export Coordination Division, International Programs, FSIS, will be used in lieu thereof.

§ 381.113 Provisions applicable to establishments intending to export product to Canada.

The following procedures and requirements shall be applicable to any official establishment intending to export product to Canada.

(a) When federally inspected and passed product is ready for export, the establishment shall contact the Export Coordination Division, International Programs, FSIS, shall request an authorization number, and shall provide the following information:

- (1) Type of product to be exported;
- (2) Number of boxes or carcasses to be exported;
- (3) Total weight of the product;
- (4) Canadian label registration number.

(b) The Export Coordination Division shall issue an authorization number to the establishment to cover the shipment described in paragraphs (a)(1) through (a)(4) of this section.

(c) The establishment shall stamp product intended for export with the stamp provided in § 381.104(b) of this part and shall include the authorization number issued as provided in paragraph (b) of this section in the body of the stamp.

(d) The establishment shall record the information provided in paragraphs (a)(1) through (a)(4) of this section and the authorization number on the joint USDA-Agriculture Canada form.

(e) The joint form shall accompany the product to the border.

(f)(1) The driver of the transport vehicle shall present the joint form to the Canadian inspector or the Customs agent stationed at the border.

(2) When there is a Canadian inspector present at the border and the authorization number is verified, or when there is no inspector present, the product shall be entered.

(3) When there is a Canadian inspector present at the border and the authorization is not verified after consultation with FSIS, the product shall be refused entry.

(4) When there is no Canadian inspector present at the border and the joint form does not accompany the product to the border, the product shall be entered.

20. Section 381.196 would be revised by adding the following phrase to the beginning of paragraph (a)(1):

§ 381.196 Eligibility of foreign countries for importation of poultry products into the United States.

(a)(1) Except for Canada, * * *

21. Section 381.197 would be amended by adding the following phrase to the beginning of paragraph (a):

§ 381.197 Imported products; foreign inspection certificates required.

(a) Except for product imported from Canada and, * * *

22. Section 381.198 would be amended revising the section heading to read as follows, by revising paragraph (b), adding the following phrase at the beginning of paragraph (a) and by adding new paragraphs (c), (d), (e), and (f) to read as follows:

§ 381.198 Importer to make application for inspection of poultry products offered for entry; exception for Canadian product; procedures for Canadian officials intending to export product to the United States.

(a) Except those persons wishing to import slaughtered poultry and other products from Canada, * * *

(b) When product is ready for export, the Canadian official shall contact Agriculture Canada and shall request an AGR number.

(c) The AGR number shall be stamped on all product intended for export.

(d) The Canadian official shall include the AGR number and the following information on the joint form:

- (1) Type of product to be exported;
- (2) Number of boxes or carcasses to be exported;
- (3) Total weight of the product;
- (4) United States label approval number.

(e) The joint form shall accompany the product to the border.

(f)(1) The driver of the transport vehicle shall present the joint form to the United States inspector or the Customs agent stationed at the border.

(2) When there is a United States inspector present at the border and the authorization number is verified, or when there is no inspector present, the product shall be entered and treated as domestic product as provided in § 381.208(a).

(3) When there is a United States import inspector present at the border and the authorization is not verified after consultation with Agriculture Canada, the product shall be refused entry.

(4) When there is no United States inspector present at the border, and the joint form does not accompany the product to the border, the product shall be entered.

23. Paragraphs (a)(1), (2), (3), (4), and (b) of § 381.199 would be amended by adding the following phrases to the beginning of the paragraphs, and paragraph (d) would be amended by adding the following phrase to the end of the paragraph:

§ 381.199 Inspection of poultry products offered for entry.

- (a)(1) Except for product imported from Canada, and ***.
- (2) Except for product imported from Canada, every lot of product shall routinely be given visual inspection by a program import inspector for appearance and condition, and checked for certification and label compliance. Canadian inspection personnel shall conduct random reinspections of product for species verification and for residues.
- (3) Except for product imported from Canada, ***.
- (4) Except for product imported from Canada, ***.
- (b) Except for product imported from Canada, ***.
- (d) ***, except for canned product imported from Canada.

Done at Washington, DC, on: June 4, 1990.
 Lester M. Crawford,
 Administrator, Food Safety and Inspection
 Service.
 [FR Doc. 90-15082 Filed 6-28-90; 9:45 am]
 BILLING CODE 3410-DM-M

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 39****[Docket No. 90-NM-109-AD]****Airworthiness Directives; Boeing Model 747 Series Airplanes****AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to supersede an existing airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, which currently requires inspection of the fuselage skin lap splice between body station (BS) 400 and BS 520 at stringer (S)-6L and S-6R and repair, if necessary. This action would delete the option of reinspecting known small cracks in lieu of repairing them before further flight. This proposal is prompted by further FAA consideration of the crack repair deferral option in the existing AD. This condition, if not corrected, could lead to sudden loss of cabin pressurization and the inability of the airplane fuselage to withstand fail-safe loads.

DATES: Comments must be received no later than August 20, 1990.

ADDRESSES: Send comments on the proposal in duplicate to Federal

Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 90-NM-109-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Steven C. Fox, Airframe Branch, ANM-120S; telephone (206) 431-1923. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 90-NM-109-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

On February 9, 1989, the FAA issued AD 89-05-03, Amendment 39-6146 (54 FR 7397, February 21, 1989), to require inspection of the fuselage skin lap splice

between body station (BS) 400 and BS 520 at stringers (S)-6L and S-6R for cracks on certain Boeing Model 747 series airplanes. That action was prompted by reports of multiple adjacent cracks on one airplane. This cracking condition, if not corrected, could result in sudden loss of cabin pressurization and the inability of the fuselage to withstand fail-safe loads.

Paragraph E. of AD 89-05-03 provided an option of reinspecting known small cracks in lieu of repairing them before further flight. This option was predicated on crack growth analysis which indicated that inspections could safely monitor cracks until they reached a specified length.

Since issuance of that AD, the FAA has reassessed the advisability of relying on continued inspections to monitor crack growth in this case. It is possible that inspections may fail to detect other small cracks, that a mistake could be made in the record keeping necessary to monitor crack growth, or that other undetected adjacent structural damage may exist. These situations could have an unacceptable effect on structural integrity of the affected lap splice. Therefore, the FAA has determined that the deferment of repair of certain known cracks does not provide an acceptable level of safety. This action proposes to eliminate that option. Failure to detect and repair cracks could lead to sudden loss of cabin pressurization and the inability of the fuselage to withstand fail-safe loads.

The FAA has reviewed and approved Boeing Alert Service Bulletin 747-53A2303, dated June 2, 1988, and Revision 1, dated March 29, 1990, which describe inspection procedures to inspect for cracks in the fuselage skin lap splice between BS 400 and BS 520 at S-6L and S-6R on certain Boeing Model 747 airplanes. A modification is described in these service bulletins, which consists of replacing the top row of fasteners with protruding head fasteners or installing an external doubler. Inspections are to continue after the accomplishment of this modification.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would supersede AD 89-05-03 with a new airworthiness directive that would require the inspection for cracks in the fuselage skin lap splice between BS 400 and BS 520 at S-6L and S-6R, and repair or modification, if necessary, in accordance with the service bulletin previously described. It would delete the previous optional provision of continued flight with certain small cracks; such

cracking would be required to be repaired prior to further flight.

There are approximately 628 Model 747 series airplanes of the affected design in the worldwide fleet. It is estimated that 202 airplanes of U.S. registry would be affected by this AD, that it would take approximately 8 manhours per airplane to accomplish the required actions, and that the average labor cost would be \$40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be \$64,640.

The regulations proposed herein would not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39:

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by superseding AD 89-05-03, Amendment 39-6146 (54 FR 7397, February 21, 1989), with the following new airworthiness directive:

Boeing: Applies to Model 747 series airplanes, line number 001 through 628, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent a failure of the fuselage skin lap splice between body station (BS) 400 and BS 520 at stringer S-6L and S-6R, accomplish the following:

A. Conduct close visual and high frequency eddy current (HFEC) inspection of the fuselage skin lap splice between BS 400 and BS 520, at stringers S-6L and S-6R for cracking, in accordance with Boeing Alert Service Bulletin 747-53A2303, dated June 2, 1988, or Revision 1, dated March 29, 1990, at the following thresholds:

1. Within the next 100 landings after March 31, 1989 (the effective date of Amendment 39-6146, AD 89-05-03), for airplanes that have accumulated 16,000 or more landings as of March 31, 1989, unless previously accomplished within the last 4,900 landings.

2. Within the next 1,000 landings after March 31, 1989, or prior to the accumulation of 16,100 landings, whichever occurs first, for airplanes that have accumulated between 12,000 and 16,000 landings, as of March 31, 1989, unless previously accomplished within the last 4,000 landings.

3. Prior to the accumulation of 13,000 landings for airplanes that have accumulated 12,000 or fewer landings as of March 31, 1989, unless previously accomplished within the last 5,000 landings.

Adequate lighting must be used for this inspection. The eddy current inspections may be conducted without removal of the paint, provided the paint does not interfere with the inspections. Paint must be removed, using an approved chemical stripper, in any situation where the inspector determines that the paint is interfering with the proper functioning of the inspection instrument.

B. On airplanes which have been modified to the stretched-upper-deck configuration, as identified in Boeing Alert Service Bulletin 747-53A2303, dated June 2, 1988, or Revision 1, dated March 29, 1990, the accumulated landing threshold for compliance with paragraph A., above, is measured from the time of the stretched-upper-deck modification.

C. If no cracking is detected, repeat the close visual and HFEC inspections required by paragraph A., above, at intervals not to exceed 5,000 landings.

D. If cracks are detected, accomplish the repair or preventive modification of the affected lap splice in accordance with Boeing Alert Service Bulletin 747-53A2303, dated June 2, 1988, or Revision 1, dated March 29, 1990, prior to further pressurized flight. If cracks are repaired in local areas without accomplishing preventive modification of the entire affected lap area, continue inspections of the unmodified and unrepaired areas of the affected lap splice in accordance with paragraph C., above.

E. For airplanes incorporating the preventative modification, as described in Boeing Alert Service Bulletin 747-53A2303, dated June 2, 1988, or Revision 1, dated March 29, 1990, accomplish the inspections required by paragraph A., above, prior to the accumulation of 10,000 landings after the

modification and thereafter at intervals not to exceed 5,000 landings. If cracks are found, repair in accordance with a method approved by the Manager, Seattle Aircraft Certification Office, FAA, Transport Airplane Directorate, prior to further pressurized flight.

F. For purposes of complying with this AD, the number of landings may be determined to equal the number of pressurization cycles where the cabin pressure differential was greater than 1.5 psi.

G. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Seattle ACO, and a copy sent to the cognizant FAA Principal Maintenance Inspector (PMI). The PMI will then forward comments or concurrence to the Seattle ACO.

H. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on June 19, 1990.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-15180 Filed 6-28-90; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 89-ANE-06]

Airworthiness Directives; General Electric Company (GE) CF6-50/-45 Series Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt an airworthiness directive (AD) that would supersede AD 90-06-07, which requires initial and repetitive inspections of the turbine mid-frame

(TMF) case installed in GE CF6-50/-45 series engines. The proposed AD is needed to prevent failure of the TMF case which can result in the release of hot gases within the nacelle that may activate the fire warning system and cause an inflight shutdown. The proposed AD would supersede AD 90-06-07 by carrying forth all existing AD inspection requirements, except for the extension of repetitive inspection intervals for certain engines.

DATES: Comments must be received on or before August 28, 1990.

ADDRESSES: Comments on the proposal may be mailed in duplicate to the Office of the Assistant Chief Counsel, Attn: Rules Docket No. 89-ANE-06, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, or delivered in duplicate to room 311, at the above address.

Comments must be marked: Docket No. 89-ANE-06.

Comments may be inspected at the New England Region, Office of the Assistant Chief Counsel, room 311, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except federal holidays.

The applicable manufacturer's service bulletins (SB) may be obtained from the General Electric Company, Technical Publications Department, 1 Neumann Way, Cincinnati, Ohio 45215, or may be examined in the Regional Rules Docket.

FOR FURTHER INFORMATION CONTACT: Marc J. Bouthillier, Engine Certification Branch, ANE-142, Engine Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7085.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire.

Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the FAA before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments,

in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 89-ANE-06". The postcard will be date/time stamped and returned to the commenter.

Discussion

AD 90-06-07, Amendment 39-6449 (55 FR 8124), was published in the *Federal Register* on March 7, 1990. The AD established initial and repetitive ultrasonic and visual inspections of certain CF6-50/-45 TMF case assemblies. The above noted AD was promoted by two incidents in which the aircraft takeoff was aborted due to an engine fire warning indication. In one incident, the aircraft overran the runway, sheared off the landing gear, and skidded a short distance on its fuselage and engine nacelles. The second incident was uneventful and no damage occurred to the aircraft. In both cases, engine fire warning indications were the result of hot gas released through a large open crack, 66 and 60 inches in length, respectively, in the TMF aft flange circumferential weld. Additional TMF cases have been found with similarly located cracks, 11 to 35 inches in length. The FAA determined that these large TMF case cracks may result in engine fire warning indications with potentially adverse impact on aircraft operation during critical flight phases. The repetitive inspections can identify TMF cases with cracks and preclude hot gas release into the core compartment.

After issuing Amendment 39-6449, the FAA determined by analysis and service experience that the repetitive inspection intervals for affected engines can be extended. The FAA also determined that TMF case mid-flange reworks are available which can further extend the initial and repetitive inspection intervals for engines incorporating these modifications. Therefore, this AD supersedes Amendment 39-6449 by extending the initial and repetitive inspection intervals for affected engines, and by defining an inspection program with even greater inspection intervals for engines incorporating TMF reworks in accordance with General Electric Service Bulletin 72-973, dated October 31, 1989, or General Electric Services

Bulletin 72-975, dated December 11, 1989.

The regulations proposed herein would not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this proposed regulation involves 2,153 engines, and the approximate total cost would be \$135,000 annually. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration (FAA) proposes to amend 14 CFR part 39 of the Federal Aviation Regulations (FAR) as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by superseding Airworthiness Directive (AD) 90-06-07, Amendment 39-6449 (55 FR 8124), with the following new AD:

General Electric Company

Applies to General Electric Company (GE) CF6-50/-45 series turbofan engines installed on, but not limited to, McDonnell-Douglas DC-10, Boeing 747, and Airbus A300 type aircraft.

Compliance is required as indicated, unless already accomplished.

To prevent turbine mid-frame (TMF) cracks which can cause the release of hot gas, increased nacelle temperature, activation of

the fire warning system, and an inflight shutdown, accomplish the following:

(a) Inspect the TMF, Part Numbers (P/N) 9128M52 and 9137M92 that do not incorporate GE CF6-50/45 Service Bulletin (SB) 72-973 or 72-975, in accordance with GE CF6-50/45 SB 72-957, Revision 2, dated January 9, 1990, as follows:

(1) Inspect TMF cases with 1,050 or greater cycles in service since new (CSN) on the effective date of this AD, at the next shop visit or prior to accumulating the next 450 cycles in service (CIS) after the effective date of this AD, whichever occurs first.

(2) Inspect TMF cases with less than 1,050 CSN on the effective date of this AD, prior to accumulating 1,500 CSN.

(3) Remove from service, prior to further flight, TMF cases which exceed the serviceable limits specified in Tables 1-4 inclusive of GE SB 72-957, Revision 2, dated January 9, 1990.

(4) Therefore, for CF6-50 engines, reinspect TMF cases with no cracks or indications at intervals not to exceed 600 CIS since previous inspection. Reinspect TMF cases with cracks or indications in accordance with the schedules and limits specified in Tables 1-4 inclusive of GE SB 72-957, Revision 2, dated January 9, 1990.

(5) Thereafter, for CF6-45 engines, reinspect TMF cases with no cracks or indications at intervals not to exceed 750 CIS since previous inspection. Reinspect TMF cases with cracks or indications in accordance with the schedules and limits specified in Tables 1-4 inclusive of GE SB 72-957, Revision 2, dated January 9, 1990.

(b) Inspect the TMF, P/N 9128M52 and 9137M92 that incorporate GE CF6-50/45 SB 72-973, dated October 31, 1989, in accordance with GE CF6-50/45 SB 72-957, Revision 2, dated January 9, 1990, as follows:

(1) Inspect TMF cases prior to accumulating 6,000 CIS since incorporation of GE SB 72-973, dated October 31, 1989.

(2) Remove from service, prior to further flight, TMF cases which exceed the serviceable limits specified in Tables 1-4 of GE SB 72-957, Revision 2, dated January 9, 1990.

(3) Thereafter, for CF6-50/-45 engines, reinspect TMF cases with no cracks or indications at each engine shop visit, not to exceed 2,400 CIS since last inspection. Reinspect TMF cases with cracks or indications, in accordance with the schedules and limits specified in Tables 1-4 inclusive of GE SB 72-957, Revision 2, dated January 9, 1990.

(c) Inspect the TMF, P/N 9128M52 and 9137M92 that incorporate GE CF6-50/-45 SB 72-975, dated December 11, 1989, in accordance with GE CF6-50/45 SB 72-957, Revision 2, dated January 9, 1990, as follows:

(1) For CF6-50 engines, inspect TMF cases prior to accumulating 1,200 CIS since incorporation of GE SB 72-975, dated December 11, 1989. Therefore, reinspect TMF cases with no cracks or indications at each engine shop visit, not to exceed 1,200 CIS since last inspection.

(2) For CF6-45 engines, inspect TMF cases prior to accumulating 1,500 CIS since incorporation of GE SB 72-975, dated December 11, 1989. Thereafter, reinspect TMF

cases with no cracks or indications at each engine shop visit, not to exceed 1,500 CIS since last inspection.

(3) Remove from service, prior to further flight, TMF cases which exceed the serviceable limits specified in Tables 1-4 of GE SB 72-957, Revision 2, dated January 9, 1990.

(4) For CF6-50/-45 engines, reinspect TMF cases with cracks or indications in accordance with the schedules and limits specified in Tables 1-4 inclusive of GE SB 72-957, Revision 2, dated January 9, 1990.

(d) Inspections performed in accordance with AD 90-08-07, are considered to be in compliance with the requirements of this AD.

(e) For the purpose of this AD, shop visit is defined as the introduction of an engine into a shop for the conduct of maintenance.

(f) For the purpose of this AD, applicable limits are those limits associated with the highest engine rating under which the part has operated.

(g) Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD can be accomplished.

(h) Upon submission of substantiating data by an owner or operator through an FAA Airworthiness Inspector, an alternate method of compliance with the requirements of this AD or adjustments to the compliance schedule specified in this AD may be approved by the Manager, Engine Certification Office, ANE-140, Engine and Propeller Directorate, Aircraft Certification Service, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803.

Issued in Burlington, Massachusetts, on June 12, 1990.

Arthur Pidgeon,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 90-15181 Filed 6-28-90; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 75

[Airspace Docket No. 89-AGL-15]

Proposed Alteration of Jet Route J-18

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: This notice withdraws the Notice of Proposed Rulemaking (NPRM), Airspace Docket No. 89-AGL-15, which was published in the Federal Register on November 21, 1989. The NPRM proposed to alter the description of Jet Route J-18 between St. Joseph, MO, and Joliet, IL. This alignment would have allowed for more efficient handling of air traffic departing the Chicago metropolitan area. This action is no longer necessary because of a change in traffic flow in the area.

EFFECTIVE DATE: July 2, 1990.

FOR FURTHER INFORMATION CONTACT:

Jesse B. Bogan, Jr., Airspace and Obstruction Evaluation Branch (ATP-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-9253.

The Proposed Rule

On November 21, 1989, a Notice of Proposed Rulemaking was published in the Federal Register to alter the description of Jet Route J-18 between St. Joseph, MO, and Joliet, IL (54 FR 48115). The realignment would allow for more efficient handling of air traffic departing the Chicago metropolitan area.

Conclusions

The FAA has decided not to implement the final rule to alter the description of Jet Route J-18 between St. Joseph, MO, and Joliet, IL. A change in traffic flow in the area obviates the realignment of the airway.

List of Subjects in 14 CFR Part 75

Aviation safety, Jet routes.

The Withdrawal

Accordingly, pursuant to the authority delegated to me, the Notice of Proposed Rulemaking, Airspace Docket No. 89-AGL-15, as published in the Federal Register on November 21, 1989 (54 FR 48115), is hereby withdrawn.

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) [Revised Pub. L. 97-449, January 12, 1983]; 14 CFR 11.69.

Issued in Washington, DC, on June 20, 1990.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 90-15182 Filed 6-28-90; 8:45 am]

BILLING CODE 4910-13-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 6E3416/P513; FRL-3741-6]

Pesticide Tolerances for Linuron

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that a tolerance of 0.25 part per million (ppm) be established for residues of the herbicide linuron in or on the raw agricultural commodity parsley. The

proposed regulation to establish a maximum permissible level for residues of the herbicide in or on the commodity was requested in a petition submitted by the Interregional Research Project No. 4 (IR-4).

DATES: Comments, identified by the document control number [PP 6E3416/P513], must be received on or before July 30, 1990.

ADDRESSES: By mail, submit written comments to: Public Information Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. Sw., Washington, DC 20460. In person, bring comments to: Rm. 246, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 246 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Hoyt Jamerson, Emergency Response and Minor Use Section (H-7505C), Registration Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St. Sw., Washington, DC 20460. Office location and telephone number: Rm. 716C, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, 703-557-2310.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4, (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition 6E3416 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR-4 Project, and the Agricultural Experiment Stations of Florida, Ohio, and New Jersey.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for residues of the herbicide linuron [3-(3,4-dichlorophenyl)-1-methoxy-1-methylurea] in or on the raw agricultural commodity parsley at 0.25 part per

million (ppm). The petitioner proposed that this use of linuron be limited to States east of the Mississippi River based on the geographical representation of the residue data submitted. Additional residue data will be required to expand the area of usage. Persons seeking geographically broader registration should contact the Agency's Registration Division at the address provided above.

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicological data considered in support of the proposed tolerance include:

1. A 2-year dog feeding study with levels tested of 0, 25, 125, and 625 ppm (0, 0.625, 3.125, and 15.625 milligrams (mg)/kilogram (kg) body weight/day), with effects (abnormal blood pigment) seen down to 25 ppm (lowest dose tested (LDT)). Therefore, the no-observed-effect level (NOEL) was less than 25 ppm and the lowest-effect level (LEL) equal to 25 ppm (LDT).

2. A 1-year dog feeding study with an NOEL of 25 ppm (0.625 mg/kg/day) and an LEL of 125 ppm (3.125 mg/kg/day) (based on an increase in methemoglobin and sulfhemoglobin levels in the blood). Levels tested were 0, 10, 25, 125, and 625 ppm (0, 0.25, 0.625, 3.125, and 15.625 mg/kg/day).

3. A 1-year rat feeding study with a systemic NOEL of less than 625 ppm (31.25 mg/kg/day).

4. A three-generation reproduction study in rats with a reproductive NOEL of 25 ppm (1.25 mg/kg/day). Levels tested were 25, 125, and 625 ppm (1.25, 6.25, and 31.25 mg/kg/day).

5. A rabbit teratology study with a maternal NOEL of 5 mg/kg/day (165 ppm) and a developmental NOEL of 25 mg/kg/day (825 ppm). Levels tested were 0, 5, 25, and 100 mg/kg/day (0, 165, 825, and 3,300 ppm).

6. A battery of mutagenicity tests including: gene mutation (CHO cells, levels tested were up to 0.5 mM in a nonactivated system, and up to 1.0 mM, S9 activated); Ames assay (without activation up to 5.0 µg/plate, and with S9 activation up to 100 µg/plate); chromosomal aberration (maximum dosage 300 mg/kg); and unscheduled DNA synthesis (levels tested up to 50 mM). All were negative under conditions of the studies.

7. A 2-year feeding/oncogenicity study in rats with a systemic NOEL of less than 50 ppm (2.5 mg/kg/day, lowest dose tested). A statistically significant increase in interstitial cell testicular adenomas was observed at the 125 ppm (6.25 mg/kg/day) dosage level. Levels

tested were 0, 50, 125, and 625 ppm (0, 2.5, 6.25, and 31.25 mg/kg/day).

8. A 2-year mouse feeding/oncogenicity study, with levels tested of 1, 50, 150, and 1,500 ppm (0, 7.5, 22.5, and 225 mg/kg/day). In the highest dose group (1,500 ppm), female mice developed a statistically significant increase in hepatocellular adenomas.

In the Federal Register of September 26, 1984 (49 FR 37843), the Agency issued a notice of Special Review of Certain Pesticide Products for registrations of products containing linuron. The Special Review was initiated based on laboratory data which indicated that linuron induced statistically significant dose-related tumors in rats and mice. Specifically, in the 2-year rat feeding study, male rats developed interstitial cell testicular adenomas (benign tumors). In the 2-year mouse feeding study, a statistically significant increase in hepatocellular adenomas was observed. The Office of Pesticide Programs' Peer Review Group and the Agency's Carcinogen Assessment Group reviewed the weight of evidence to determine the oncogenic potential of linuron. Both groups agree that linuron should be categorized as Group C. This conclusion is based on the following:

1. Although linuron produced a statistically significant increase in both testicular hyperplasia and adenomas in male rats and a statistically significant increase in the incidence of hepatocellular adenomas in female mice at the highest dose group tested, the tumors observed were benign in nature and showed no progression toward malignancy.

2. The tumors found in the rat oncogenicity study occurred late in the life of the test animals and were not life threatening.

3. Linuron did not test positively in the standard battery of mutagenicity tests.

4. Historically, spontaneous formation of testicular adenomas, a relatively common type of tumor, has been observed in Charles River and Fischer rat strains.

These factors, late-forming benign testicular tumors of a relatively common tumor type in animals with a background rate of similar tumors, and lack of supporting evidence of carcinogenic potential (mutagenicity data) lead to a conclusion that the evidence in this case of human carcinogenic potential is weak. Based upon this, the Agency has concluded that quantification of cancer risk for linuron is inappropriate because of linuron's low human carcinogenic potential. Therefore, linuron has been classified as an unquantifiable Group C

carcinogen (limited evidence of carcinogenicity in animals).

The reference dose (PADI) based on the LEL of 0.625 mg/kg body weight/day from the 2-year dog feeding study and using an uncertainty factor of 300 is calculated to be 0.002 mg/kg body weight/day. The anticipated residue contribution (ARC) from currently established tolerances for the overall U.S. population is calculated to be 0.000159 mg/kg/day (7.96 percent of the PADI). The contribution to the estimated exposure from the proposed tolerance is calculated to be less than 0.000001 mg/kg/day (a negligible increase of less than 0.05 percent of the PADI).

The nature of the residue is adequately understood and an adequate analytical method is available for enforcement purposes which has been published in the Pesticide Analytical Manual (PAM), Vol. II. No secondary residues in meat, milk, poultry, or eggs are expected since parsley is not considered a livestock feed commodity. There are currently no actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency, the tolerance established by amending 40 CFR 180.184 would protect the public health. Therefore, it is proposed that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this document in the Federal Register that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [PP 6E3416/P513]. All written comments filed in response to this petition will be available in the Public Information Branch, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances

or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 14, 1990.

Anne E. Lindsay,
Director, Registration Division, Office of
Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. Section 180.184 is amended by designating the current text and list of tolerances as paragraph (a) and by adding new paragraph (b), to read as follows:

§ 180.184 Linuron; tolerances for residues.

* * * * *

(b) Tolerances with regional registration, as defined in § 180.1(n), are established for residues of the herbicide linuron (3-[3,4-dichlorophenyl]-1-methoxy-1-methylurea) in or on the following raw agricultural commodity:

Commodity	Parts per million
Parsley.....	0.25

[FR Doc. 90-15196 Filed 6-28-90; 8:45 am]
BILLING CODE 6560-50-D

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 90-319, RM-7201]

Radio Broadcasting Services; Oscoda, MI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a portion filed by David C. Schaberg proposing the substitution of

FM Channel 264C3 for Channel 261A at Oscoda, Michigan, and modification of his construction permit for Channel 261A to specify operation on the higher class channel. Canadian concurrence will be requested for this allotment. The coordinates for Channel 264C3 are 44-30-00 and 83-20-30.

DATES: Comments must be filed on or before August 20, 1990, and reply comments on or before September 4, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: David C. Schaberg, P.O. Box 21055, Lansing, Michigan 48909-1055.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90-319, adopted June 18, 1990, and released June 28, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to his proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts. For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division,
Mass Media Bureau.

[FR Doc. 90-15218 Filed 6-28-90; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 90-317, RM-7312]

Radio Broadcasting Services; Nags Head, NC**AGENCY:** Federal Communications Commission.**ACTION:** Proposed rule.

SUMMARY: The Commission requests comments on a petition by Coastal Radio, Inc., permittee of Station WNHV, Nags Head, North Carolina, seeking the substitution of Channel 223C3 for Channel 222A at Nags Head, North Carolina, and the modification of its construction permit to specify the higher powered channel. Channel 223C3 can be allotted to Nags Head in compliance with the Commission's minimum distance separation requirements with a site restriction of 7.7 kilometers (4.8 miles) south to avoid a short-spacing to Station WYFL, Channel 223C, Henderson, North Carolina. The coordinates for this proposed allotment are North Latitude 35-53-22 and West Longitude 75-35-54. In accordance with § 1.420(g) of the Commission's rules, we will not accept competing expressions of interest for use of Channel 223C3 at Nags Head or require the petitioner to demonstrate the availability of an additional equivalent class channel for use by such parties.

DATES: Comments must be filed on or before August 20, 1990, and reply comments on or before September 4, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: David D. Oxenford, Esq., Matthew P. Zinn, Esq., Fisher, Wayland, Cooper & Leader, 1255-23rd Street, NW., suite 800, Washington, DC 20037 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90-317, adopted June 18, 1990, and released June 26, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's

copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-15216 Filed 6-28-90; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 90-316, RM-7059]

Radio Broadcasting Services; Rocky Mount, NC**AGENCY:** Federal Communications Commission.**ACTION:** Proposed rule.

SUMMARY: The Commission requests comments on a petition by Radio Triangle East Company, permittee of Station WSAY-FM at Rocky Mount, North Carolina, seeking the substitution of Channel 253C3 for Channel 253A at Rocky Mount and the modification of its construction permit to specify the higher powered channel. Channel 253C3 can be allotted to Rocky Mount in compliance with the Commission's minimum distance separation requirements and can be used at the site specified in Station WSAY-FM's construction permit. The coordinates for this allotment are North Latitude 35-54-43 and West Longitude 77-50-06. In accordance with § 1.420(g) of the Commission's Rules, we will not accept competing expressions of interest for use of Channel 253C3 at Rocky Mount or

require the petitioner to demonstrate the availability of an additional equivalent class channel.

DATES: Comments must be filed on or before August 20, 1990, and reply comments on or before September 4, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Meredith S. Senter, Jr., Esq., Stephen D. Baruch, Esq., Leventhal, Senter & Lerman, 2000 K Street NW., suite 600, Washington, DC 20006-1809 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90-316 adopted June 18, 1990, and released June 26, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contracts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-15217 Filed 6-28-90; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 90-318, RM-7311]

Radio Broadcasting Services; New Washington, OH**AGENCY:** Federal Communications Commission.**ACTION:** Proposed rule.

SUMMARY: The Commission requests comments on a petition by Good News Broadcasting, seeking the allotment of Channel 227A to New Washington, Ohio, as the community's first local FM service. Channel 227A can be allotted to New Washington with a site restriction of 11 kilometers (6.8 miles) northwest to avoid a short-spacing to Stations WQEL, Channel 224A, Bucyrus, Ohio, and WZAK, Channel 226B, Cleveland, Ohio. The coordinates for this allotment are North Latitude 41-02-30 and West Longitude 82-55-43.

DATES: Comments must be filed on or before August 20, 1990, and reply comments on or before September 4, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or its counsel or consultant, as follows: James M. Weitzman, Esq., Kaye, Scholer, Fierman, Hays & Handler, The McPherson Building, 901-15th Street NW., suite 1100, Washington, DC 20005 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90-318, adopted June 18, 1990, and released June 28, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in

Commission proceedings, such as this one, which involved channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division,
Mass Media Bureau

[FR Doc. 90-15215 Filed 6-28-90; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF DEFENSE**Department of the Navy****48 CFR Parts 5243 and 5252****Navy Acquisition Procedures Supplement; Adjustments to Prices Under Shipbuilding Contracts****AGENCY:** Department of the Navy, DOD.**ACTION:** Amendment of proposed rule; reopening of comment period and notice of public hearing.

SUMMARY: This document proposes to amend earlier proposed rules to restrict contract price adjustments under shipbuilding contracts and thereby implement the requirements of 10 U.S.C. 2405. This proposal would amend the original proposal by, among other things, revising several definitions of terms, modifying data submission requirements and deleting a proposed clause.

DATES: Written comments are solicited and should be received by July 27, 1990. A public hearing on the proposed rule will be held on August 23, 1990, commencing 9 a.m. Requests to present oral testimony at the hearing should be received on or before August 9, 1990. Post hearing comments may be submitted until 5 p.m., e.d.t., September 6, 1990.

ADDRESSES: Interested parties should submit written comments and requests to testify at the hearing to: Office of the Assistant Secretary of the Navy (Research, Development and Acquisition) (OASN(RD&A)), ATTN: Richard Moye, CBM-AP, Washington, DC 20360-5000. The public hearing on the proposed rule will be held at the Naval Sea Systems Command, National Center #3, 2531 Jefferson Davis Highway, Arlington, Virginia, in room 3S11.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Moye, OASN(RD&A) CBM-AP, (202) 692-3558.

SUPPLEMENTARY INFORMATION: The Department of the Navy (DoN) published proposed rules on contract price adjustments under shipbuilding contracts in the *Federal Register* (54 FR 47689, November 16, 1989), providing that interested persons could file comments through January 16, 1990. A correction to the November 16, 1989 notice, which also extended the comment period through February 15, 1990, was published in the *Federal Register* (55 FR 3603, February 2, 1990). Comments were received on behalf of five corporations, one industry association, one bar association and one law firm. Because the proposed rules are undergoing revision, for which additional public comment is desired, the notice of proposed rules is being revised, and additional time for public comment and a public hearing are being provided. Following is a summary of the comments received from corporations, associations and law firms and the Navy's action relating to those comments.

Comments on Scope of Restriction of Contract Price Adjustments under Shipbuilding Contracts

Two corporations and two associations expressed their objection to the scope of the Navy's application of the restriction on adjustments to shipbuilding contracts. They stated that the distinction between the terms "under" a contract and "relating to" a contract has historically meant different things in Government contracting and that the use of the term "under" in the statute should limit the scope of the adjustments which are subject to the proposed rules. This comment was not adopted. The historical terminology addressed by the comment relates to disputes "arising under the contract" contrasted with disputes "relating to" a contract. The subject statute does not use the phrase "arising under the contract"; nor does a legislative intent appear that Congress employed the term "under" to connote "arising under the contract". In this latter regard, the problem which the legislation addressed involved shipbuilding claims which actually included allegations of breach of contract, i.e., claims "relating to" a contract. The statute was enacted, in part, to require shipbuilders to submit claims, requests for equitable adjustment and demands for payment within 18 months of the occurrence of the event(s) giving rise to these submissions. There is no basis in the legislative history or the statute itself to indicate that the scope of the prohibitions imposed by the statute

were to be narrowly construed so as to exclude matters "relating to" shipbuilding contracts.

One corporation suggested that the proposed rules should not be promulgated; instead, informal guidance should be provided contracting officers to permit them greater flexibility in application. This comment was not adopted. The Navy initially implemented the statute with informal guidance; however, such an approach is inconsistent with recent language contained in Congressional committee reports which direct the Navy to promulgate rules to implement the statute. In addition, implementation of the statute is to be uniform. Inconsistent application or errors in interpretation or administration of the statute are not in the best interests of shipbuilders, the Navy or the public. Therefore, it has been determined that the proposed rules should be promulgated.

One corporation suggested that the restriction upon the Secretary's power to make contract price adjustments should not restrict the power of contracting officers in the same department. This suggestion does not have any legal basis and was not accepted.

One corporation expressed an objection to the treatment of shipbuilders more harshly than other Government contractors. The Navy notes that this statute is applicable to all shipbuilding contracts entered into by the military departments after December 7, 1983. The scope of the statute cannot be altered by the proposed rule.

Comments on definitions

Three corporations, an association and a law firm objected to the definitions of "claim," "request for equitable adjustment" and "demand for payment" as being overbroad. On commenter requested inclusion of examples of each. In each case, it was suggested that undisputed matters should not be covered. The definition of "claim" was objected to for varying from the Contract Disputes Act (CDA)/Federal Acquisition Regulation (FAR) definition. The definition of "demand for payment" was objected to for including interest or other amounts not included in the contract price. On commenter also suggested that the definitions should be clarified to indicate that all disputes regarding payments, including progress payments, be included within the definition of these terms. Treatment of definition of maximum-priced modifications solely in the "request for equitable adjustment" definition was also objected to as implying that similar treatment for "claims" and "demands for payment" was not intended. An

objection was also raised regarding the lack of a standard for determining divisibility of claims.

The definition of "claim" has not been revised as requested. The proposed language was not necessary to aid in interpreting or applying the proposed rules. As proposed, the rules express the scope of the term "claim" as it is intended to be applied. The definition contained in the proposed regulations is not inconsistent with either the CDA or the FAR. The definitions of "request for equitable adjustment" and "demand for payment" have been revised to exclude routine requests for payment in accordance with contract terms. Further, the rules have been revised to clarify that disputes over routine payments, including progress payments, are not considered to be price adjustments as long as additional amounts are not requested which would result in price increases. In this regard, interest has been deleted, because interest under the CDA would not be payable on any matter which is barred by operation of this statute, and other interest payments, such as that payable under the Prompt Payment Act, are not considered to be price adjustments. Examples of matters which are covered by each of the definitions are not considered necessary and, therefore, have not been included. The language regarding definitization of maximum-priced modifications has been moved to the definition for "price adjustment" to clarify that the application of the statute of maximum-priced modifications will be the same under all situations. Further, although no specific comment was received regarding maximum-priced modifications, the restrictions regarding adequate supporting data and certification relative to entering into this type of modification have been deleted from the proposed rule, because existing procedures define what is required to support entering into a maximum-priced modification, and it was determined that additional requirements were unnecessary. In general, divisibility of claims is adequately described in case law and, therefore, further description is not considered necessary. However, for the purpose of the proposed rule, if there are separate "events", the Navy will apply the statute to each of the "events".

Two corporations and a law firm commented on the definition of "shipbuilding contract". It was suggested that the definition of "shipbuilding contract" be changed to include only contracts for construction of vessels designated as ships in the contract. Also suggested was a limitation of such contracts to Department of Defense-funded

contracts. The Navy does not object to the inclusion of a provision in future solicitations which advises the shipbuilders of the applicability of the subject statute and has included such a provision in the proposed rules. Inclusion of 5252.243-9000 in all applicable contract solicitations should satisfy the question of whether a particular contract is considered a shipbuilding contract. However, the inclusion or exclusion of this provision is not the controlling factor; it is the classification of the subject matter of the contract which determines whether the contract is a shipbuilding contract, *i.e.*, if the contract provides for the construction of a ship, it is a shipbuilding contract. Finally, the statutory restriction is not related to the source of funding supporting the contract; therefore, limiting the restriction to contracts funded by the Department of Defense is not appropriate.

Two corporations and an association suggested that the definition of "price adjustment" be changed to delete changes in the fee structure of cost reimbursement contracts, monetary damages, adjustments to sharing ratios or other pricing formulas, and the definition of costs included or excluded from the contract price. These changes have not been incorporated, except as noted below. Adjustments in the fee structure of cost reimbursement contracts and adjustments to contract sharelines, ceiling prices and similar contract pricing formulas effect adjustments in the prices of contracts and, therefore, are considered within the scope of the restriction. The question of whether money damages should be considered within the scope of the restriction actually addresses the scope of the statute discussed above regarding matters "relating to" a contract. The language addressing the definition of costs to be included or excluded from the determination of the final price has been deleted from the proposed rule as unnecessary. In addition, as noted above, interest has been deleted from other definitions and will not be considered a price adjustment unless it is a "cost element" of a claim, request or demand.

One corporation and an association requested identification of occurrences which stop the running of the statute. The Navy does not consider that examples are necessary because the 18 month period stops upon the earlier of the pricing of the matter (including maximum-price modifications) or the submission of a claim, request or demand that is certified, if required, and

is accompanied by the required supporting data.

Four corporations, two associations and a law firm objected to the definition of "event". One commenter suggested that the statute was too vague and ambiguous to be enforceable, because it failed to adequately define "events." Three commenters objected that the definition of "event" did not employ the "known or should have known" standard. It was suggested that defining "event" as "action, inaction, conduct, or occurrence" creates an artificial date for determining when an event occurred. It was further suggested that "event" should be based on written directions only. The Navy does not consider the statute to be ambiguous. The standard of "known or should have known" has not been adopted. The statute uses an objective method for determining the 18 month period which is determinable by both parties of the contract. This approach, which is consistent with the legislative history of the statute, benefits both parties by providing an identifiable point in time from which the 18 month period can be calculated. The "known or should have known" standard, a subjective standard, could result in substantial problems in application and could lead to extensive litigation over the actual or constructive knowledge of a shipbuilder in a particular matter. Such a result would not further the purpose of the statute, the suggestion that the restriction be applied only to written directions was not adopted. Liability of the Government, especially in the area of constructive changes, is not dependent upon written direction and, therefore, it would not be appropriate to delay the operation of the statute to a point in time which does not relate to the occurrence of the event(s) which gives rise to the shipbuilder's submission. The Navy believes that a well managed shipbuilding will be aware of and have adequate time within the 18 month period to identify the occurrence of any "events" and submit a proper proposal.

Six commenters objected that the restriction should apply to "events," meaning a sequence of events, rather than to a single event. Consequently, it was contended that the 18 month period should start with the last identifiable event in such sequence, which it was stated would be contract completion and/or ship delivery. It was argued that the traditional interpretation of statutes of limitations (under which the statutory period runs from the last identifiable event, such as contract completion) should govern and that the subject statute should be applied in the same

fashion. It was also argued that quantification of the financial impact on the shipbuilder should be a prerequisite for starting the calculation of the 18 month period. These comments appear to have misunderstood the proposed rules. The proposed rules do not adopt the earliest possible time for the commencement of the running of the statute. In general, the Navy recognizes that, in a particular matter, a sequence of occurrences may be involved. In such a case, the Navy has used the last occurrence in the sequence as commencing the 18 month period. Perhaps the best example of this is the one in the proposed rules regarding defective Government-furnished property. In this example, there are multiple events: the contract schedule, the furnishing of the property by the Government, the storage of the property by the contractor, the unpacking of the property by the contractor, the discovery of the damage by the contractor, the request for instructions regarding the repair or replacement of the property, and the direction by the contracting officer. In this sequence, the last action is deemed to commence the running of the statutory period. (The proposed rules, however, also address the situation in which a shipbuilder takes action to correct or replace the defective property without asking, or waiting, for the contracting officer's direction.) The proposed rules have been amended to use the statutory term "events", i.e., the plural of the word "event", and to clarify that it is the final action, inaction, conduct or occurrence which starts the running of the 18 month period. However, the Navy will review all submissions to determine whether they are based upon a sequence of occurrences or multiple "events". Where there are multiple "events", the 18 month period will apply independently to each of the "events". The proposed interpretation of the term "events", as meaning the completion of the contract, as well as other suggestions that the term "events" also includes the consequences, i.e., the quantification of the financial impact, of the action, inaction, conduct or occurrence is not incorporated into the proposed regulations. The suggestion that the statutory period does not commence until delivery of the ship(s) under the contract, or upon contract completion, would allow claims, requests or demands to be submitted at a time later in the performance of the contract than the claims which were submitted in the late 1970s. Such a position is not in any manner consistent with the intent of the statute, the legislative history or the

express language. The Navy shipbuilding claims of the late 1970s, which gave rise to this legislation, involved many claims submitted prior to delivery of the last ship under the contract. As is discussed in more detail below, the quantification of the claim, request or demand is not considered to be a prerequisite to starting the running of the 18 month period. Consequently, the recommended interpretations would not achieve the goals of the legislation and, therefore, have not been adopted.

Seven commenters objected that the definition of "event" did not allow time for impact quantification. It was contended that such recognition was necessary to permit compliance with the certification and data submission requirements. Reference was made to a dictionary definition of "event" as included both cause and effect. The definition of "events" has not been changed as suggested. Regarding the consequences of an action, inaction, conduct or occurrence, the legislative history of the statute makes it very clear that the 18 month period was a compromise period which Congress believed was adequate for shipbuilders to assess the consequences of an event and submit a documented claim, request or demand. Further, the Navy believes that this 18 month period has been proven to be adequate. Finally, as provided in the proposed regulations, both the amount claimed and the supporting data may be subsequently updated and supplemented, as appropriate, based on subsequently obtained information.

One commenter suggested that subcontractor claims should be specifically addressed at that a longer time was necessary for treatment of subcontractor claims. The commenter suggested that the submission of the claim to the prime contractor is the "event" for purposes of subcontractor claims. This suggestion was not adopted, because the Government contracts solely with the contractor. The statute addresses a price adjustment to the prime contract; whether such a price adjustment also involves a subcontract(s), the "events" occur at the same time and, thus, the 18 month period commences upon the occurrence of the "events". There is no basis in the statutory language or the legislative history to delay the commencement of the running of the statute because a subcontractor is involved.

Comments were also submitted regarding the examples of "events" included in the proposed regulations. Several commenters objected to the inclusion of formal changes as "events",

contending that only constructive changes and disputed issues should constitute events. This suggestion was not adopted. The statute addresses price adjustments based on claims, requests for equitable adjustment and demands for payment. Thus, for formal changes for which a contractor is authorized to commence work prior to definitizing the price of the change, the pricing action is an equitable adjustment and is, therefore, covered by the express language of the statute.

Another objection identified an alleged inconsistency in the examples for constructive changes attributable to defective specifications. It was contended that, if the nature of the "event" is an allegation of defective Government-furnished specifications and the Government disagrees that there is a defect, the event could be the date the specification was received by the contractor. The Navy does not consider that there is an inconsistency in the proposed rules. If the Government disagrees that the specification is defective, the response from the contracting officer expressing the Government's position would be the final action which commences the running of the statute, not the receipt of the specification by the contractor. This interpretation has been included in the proposed rules.

Comments on Certification

Three corporations objected to the requirements regarding certification as being too restrictive. The designation of the individuals authorized to sign the certification was objected to as being more restrictive than necessary. Several commenters contended that CDA certification requirements should be sufficient, while others contended that even CDA requirements were too restrictive and that any individual who can legally bind the company should be permitted to execute the required certification. One commenter also suggested that the certification submitted pursuant to DFARS 233.7000 should not be accepted. The Navy considers that the designation of individuals authorized to sign the certification is consistent with the CDA. The DFARS 233.7000 certification is considered to be acceptable to meet the statutory requirement for certification.

Four commenters also objected to the provision that the contracting officer could reject claims on the basis of failure to comply with certification or supporting data submission requirements. One objection addressed the alleged discretion in the contracting officer to reject compliant claims. Similarly, another commenter suggested

that the contracting officer should not be authorized to reject non-compliant claims but only to deny such claims, the latter treatment being appealable to the ASBCA or the Claims Court whereas the former treatment would not be appealable. It was also contended that rejection should be based only on material non-compliance. The Navy recognizes that the determination regarding the propriety of the contractor certification and the adequacy of documentation requires the exercise of judgment by contracting officers; however, the submission of proper certification and adequate supporting data is under the direct control of the shipbuilder making the submission. Selection of the appropriate person within the company to execute a certification is the responsibility of the company. Shipbuilders have been placed on notice of the certification requirements, and there is no reason any shipbuilder should fail to meet the certification requirements. Regarding the adequacy of the supporting data, the proposed rules have been modified to identify the data which will be deemed to constitute adequate supporting data. If this data is not submitted, the contracting officer will be required to exercise judgment, in accordance with the requirements of the CDA, to determine if the submission is adequate. Rejection of claims under these rules is consistent with the CDA and case law thereunder. Any submission which is not adequate, whether due to the certification or the supporting data, is not a claim under the CDA and, therefore, a contracting officer's final decision should not be issued. Regarding the rejection of a matter which is properly a claim, a contractor may appeal the rejection as constituting the failure to issue a decision by the contracting officer under the CDA and have the propriety of the contracting officer's rejection heard in accordance with the procedures of the CDA.

Finally, it was suggested by five commenters that the contracting officer's authority to reject claims should be subject to a time limit for notification to the contractor. Seven, thirty and sixty days were suggested time limits. Also suggested was allowance of a reasonable time to cure deficiencies. These suggestions were not adopted. The requirement for certification and submission of the supporting data is statutory and cannot be waived by a contracting officer. A contracting officer's failure to provide notification within a specific time frame would not affect the operation of the statute. The responsibility for

certification and submission of a properly documented claim, request or demand remains with the shipbuilder. Allowance of a period to cure any deficiency was not implemented. The statute does not provide for the time period to be totaled until there is a proper submission. The date of a proper submission is the date of receipt of such proper submission by the contracting officer.

Comments on Supporting Data Requirements

Four corporations, one law firm and one association objected to the requirements for submission of supporting data as being too stringent, particularly the identification of the information "at a minimum" required to be submitted. It was suggested that supporting data submission requirements should be limited to those imposed by the CDA. Use of the term "adequate" in conjunction with the requirement was objected to on the same basis. Similarly, use of the phrase "reasonably available" in describing required information was objected to as being too vague. It was also suggested that language recognizing that the identified data may not be applicable or reasonably available in every instance, included in the clause at 5252.9001, should also be included at 5243.7004. As discussed above, the language of the clause set forth at 5252.9001, and in the requirements of 5243.7004, have been revised to provide that, if the data identified therein is furnished, it will be deemed to constitute adequate supporting data. If this data is not submitted, the contracting officer will be required to exercise judgment, in accordance with the requirements of the CDA, to determine if the submission is adequate. Whether or not the term "adequate" is included to describe required supporting data, the requirement that the submitted data be sufficient to serve the purposes underlying the statute would remain. Therefore, the term adequate has been retained.

Consistent with the Truth in Negotiations Act requirements, one commenter suggested that submission of data should not be the only means of satisfying the supporting data requirement; identification of the supporting data should also be permitted. The Navy notes that the statute requires the submission of the supporting data. Therefore, the physical delivery of all the supporting data is required.

An objection was raised concerning the proposed use of a clause identifying

required supporting data on non-shipbuilding contracts; this proposal practice was alleged to improperly exceed the Federal Register notice. In order to avoid any confusion, the Documentation of Requests for Equitable Adjustments clause has been deleted. However, it is noted that contracting activities have discretion to define the type of data which must be submitted in support of a claim, request for equitable adjustment or demand for payment, and this revision does not in any manner affect or restrict the authority to include such clauses in non-shipbuilding contracts. This clause will continue to be used in Navy shipbuilding contracts, as it has been used in the past; it imposes documentation requirements on a contractual basis. While the clause will continue to be used, its violation may result in contractual remedies, which are independent of 10 U.S.C. 2405.

Other Comments

Several other relatively minor comments were received which are not specifically addressed; however, all comments were considered in revising the proposed rules.

Other Revisions

The definition of events was expanded to address occurrences involving defective Government-furnished property, specifications and drawings which would give rise to claims, requests, or demands based on contractor action in the absence of contracting officer direction.

Public Hearing and Filing Additional Comments

Both oral and written comments may be given at a public hearing. Persons wishing to comment at the public hearing should contact the person identified under "FOR FURTHER INFORMATION CONTACT" by the close of business on August 9, 1990. In order to ensure that adequate space is available, it is requested that all interested persons desiring to attend the hearing advise the above named person of the name of the interested party, the number of expected attendees and the telephone number for a designated point of contact, in order that each person can be contacted should there be a need to change the date, time or place set for the hearing.

If not previously filed, the filing of a written statement by each person intending to present oral comments at the hearing is requested as it will greatly assist the transcriber. Submission of written comments, including any questions, at least two weeks in advance of the hearing will allow

officials to prepare responses to questions. All comments filed in response to the initial request for comment will be considered as part of the record; therefore, it is not necessary to restate the same comment. If any comment previously filed was not addressed above, such comment may be resubmitted.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and who wish to do so will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment have been heard.

Paperwork Reduction Act

The proposed rules contain no new information collection or recordkeeping requirement under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, et. seq.). Supporting data requirements identified in the proposed rules include only data already required to be maintained by shipbuilding contractors.

Regulatory Flexibility Act

The proposed rules will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601, et. seq.

List of Subjects in 48 CFR Parts 5243 and 5252

Contract modifications, documentation requirements, Government procurement, Shipbuilding contracts, Solicitation provisions and Contract clauses.

It is proposed to amend title 48 of the Code of Federal Regulations as follows:

1. By adding part 5243 to read as follows:

PART 5243—CONTRACT MODIFICATIONS

Subpart 5243.70 Adjustments to Prices Under Shipbuilding Contracts

- | | |
|-----------|---|
| Sec. | |
| 5243.7001 | Adjustments to prices under shipbuilding contracts. |
| 5243.7002 | Definitions. |
| 5243.7003 | Prohibited actions and procedures. |
| 5243.7004 | Documentation and certification requirements. |
| 5243.7005 | Solicitation provision and contract clause. |

Authority: 5 U.S.C. 301, 10 U.S.C. 2405, DOD Directive 5000.35

Subpart 5243.70—Adjustments to Prices Under Shipbuilding Contracts

5243.7001 Adjustments to prices under shipbuilding contracts.

(a) 10 U.S.C. 2405 prohibits the Secretary of a military department from making a price adjustment to a shipbuilding contract, entered into after December 7, 1983, for an amount set forth in a claim, request for equitable adjustment, or demand for payment (or incurred due to the preparation, submission, or adjudication of any such claim, request for equitable adjustment, or demand for payment) arising out of events occurring more than 18 months before the submission of the claim, request for equitable adjustment, or demand for payment.

(b) 10 U.S.C. 2405 provides that a claim, request for equitable adjustment, or demand for payment is submitted on the date the contractor's submission is received by the contracting officer accompanied by the supporting data for the claim, request for equitable adjustment, or demand for payment and the certification required by section 6(c)(1) of the Contract Disputes Act, if the matter is over \$50,000.

(c) This subpart implements 10 U.S.C. 2405.

5243.7002 Definitions.

As used in this subpart, the following terms have the meanings set forth below.

Claim means a written demand or written assertion by the contractor seeking, as a matter of right, a price adjustment to the contract. The theory upon which the contractor seeks the price adjustment does not determine whether a particular matter is a claim. The term includes a submission asserting any theory supporting a price adjustment, including but not limited to constructive change, breach of contract or mistake, which, if valid, would result in contractor entitlement to a price adjustment. A claim does not include a request for equitable adjustment or demand for payment, as defined below.

Demand for payment means a written demand for payment, other than routine payment in accordance with the payment terms of the contract.

Events means the Government action(s), Government inaction(s), Government conduct, or occurrence(s) which gives rise to the contractor's claim, request for equitable adjustment, or demand for payment. For the purpose of this subpart, the date of the final Government action, Government inaction, Government conduct or occurrence is the date on which the 18

month period commences. The final Government action, Government inaction, Government conduct or occurrence and the date thereof for specific categories of liability are as follows:

(a) Formal changes (including changes based on engineering change proposals (ECPs) and non-engineering change proposals (NECPs)). The final Government action for a formal written change is the contracting officer's authorization or direction to proceed. The date the final Government action occurs is the date of receipt of the contracting officer's authorization or direction to proceed. If the contracting officer unilaterally establishes the price of a previously issued maximum-priced modification, or any other modification which is not fully priced at the time it is issued, the unilateral pricing action is the final Government action. In this latter case, the date the final Government action occurs is the date of receipt of the contracting officer's unilateral price determination by the contractor.

(b) Defective Government-furnished property. The final Government action is the direction from the contracting officer regarding correction, replacement or repair of the property. The date the final Government action occurs is the date of receipt of the contracting officer's direction by the contractor. If a contractor proceeds without direction from the contracting officer regarding the correction, replacement or repair of the property, the final occurrence is the contractor's commencement of the correction, replacement or repair of the property. In this latter case, the date of the final occurrence is the date the contractor commences the correction, replacement or repair of the property.

(c) Defective Government-furnished specifications. The final Government action occurs when the contracting officer either directs corrective action or notifies the contractor that the specifications are not defective. The date the final action occurs is the date of receipt of the contracting officer's direction or notification by the contractor. If a contractor proceeds to correct a deficiency in a specification without direction or notification from the contracting officer, the final occurrence is the contractor's commencement of the correction. In this latter case, the date of the final occurrence is the date the contractor commences the correction.

(d) Defective Government-furnished drawings. The final Government action is the contractor's receipt of a revised drawing, the contracting officer's direction regarding corrective action or

notification that the drawing is not defective. The date the final Government action occurs is the earlier of the date of receipt of the revised drawing, the date of receipt of the contracting officer's direction regarding corrective action or notification that the drawing is not defective by the contractor. If a contractor proceeds to correct a deficiency in a drawing without direction or notification from the contracting officer, or, if applicable, before receipt of a revised drawing, the final occurrence is the contractor's commencement of the correction. In this latter case, the date of the final occurrence is the date the contractor commences the correction.

(e) Late Government-furnished property and information (including Government furnished equipment, material, specifications, drawings and other information). The final Government action is the earlier of the actual delivery of the Government-furnished property or information to the contractor, or the notification from the contracting officer establishing a revised delivery date for the property or information. The date the final Government action occurs is the earlier of the date the property or information is delivered to the contractor or the date of receipt of the contracting officer's notification of the revised delivery date for the property or information.

Price adjustment means an increase in the fixed price, target price, ceiling price, or final price of a fixed price type contract, an increase in the fee structure of a cost reimbursement type contract, or monetary damages or other payment resulting from a contractor claim, request for equitable adjustment, or demand for payment. An adjustment to the sharing ratio or to any other pricing formula, procedure or provision, which has the effect of increasing the fixed price, target price, ceiling price, final price, or fee of the contract, is a price adjustment. A schedule adjustment, whether requested as part of a submission seeking a price adjustment or as the sole relief, or an adjustment for any matter which, pursuant to the terms of the contract is separate from or not included in the fixed price, target price, ceiling price or final price of a fixed price contract or the fee structure of a cost reimbursement contract, is not a price adjustment. The bilateral definitization of a maximum-price modification within the maximum price is not a price adjustment. A routine invoice or other request for payment or reimbursement in accordance with the terms of the contract, even if in dispute, which, if paid, would not result in an increase in the price of the contract is

not a price adjustment. For the purpose of this subpart, relief granted pursuant to a request for extraordinary contractual relief under Public Law 85-804 does not constitute a price adjustment.

Request for equitable adjustment means a written request for a price adjustment to the contract in accordance with the provisions of a clause which expressly provides for such a price adjustment.

Shipbuilding contract means a contract which provides for the construction of a ship which is of a type that is designated as a ship. (If the Navy is entering into a contract on behalf of another department, agency or activity of the federal Government, and such department, agency or activity involved designates the item being constructed as a ship, the contract is a shipbuilding contract.) A contract which includes items in addition to the construction of a ship is a shipbuilding contract. A contract for the conversion, reactivation, overhaul, or repair of a ship is not a shipbuilding contract. A contract for the acquisition of any type of vessel which type is not designated as a ship is not a shipbuilding contract.

5243.7003 Prohibited actions and procedures.

(a) This subpart does not preclude: (1) Bilateral modifications which are fully priced or maximum-priced prior to the contractor being authorized or directed to proceed by the contracting officer or (2) any pricing action which is either fully priced or maximum-priced, based on events which occurred less than 18 months prior to the execution of the bilateral modification incorporating the pricing action.

(b) Contracting officers shall not make any price adjustment pursuant to any claim, request for equitable adjustment, or demand for payment submitted by a contractor seeking a price adjustment to a shipbuilding contract entered into after December 7, 1983, if the event giving rise to the claim, request for equitable adjustment, or demand for payment occurred more than 18 months prior to the date of receipt by the contracting officer of a claim, request for equitable adjustment, or demand for payment with adequate supporting data and, if the matter is over \$50,000, the certification required by section 6(c)(1) of the Contract Disputes Act.

(c) In reviewing a claim, request for equitable adjustment, or demand for payment to determine whether the matter, or any part of the matter, is subject to the prohibition set forth in paragraph (b) of this section, contracting

officers shall consider the theory upon which the contractor relies, the terms of the contract, and all pertinent Government action(s), Government inaction(s), Government conduct and occurrence(s). Unrelated matters or matters arising out of different events included in a single claim, request for equitable adjustment, or demand for payment shall be reviewed based on the events appropriate to each individual matter and a determination of the application of the prohibition set forth in paragraph (b) of this section shall be made for each such matter.

5243.7004 Documentation and certification requirements.

(a) For the purpose of this subpart, a claim, request for equitable adjustment, or demand for payment is not submitted until the contractor has furnished to the contracting officer adequate supporting data and, if the matter is over \$50,000, the certification required by section 6(c)(1) of the Contract Disputes Act. If either the supporting data or the certification, if the matter is over \$50,000, is deficient, the claim, request for equitable adjustment, or demand for payment shall not be considered to be submitted until any such deficiency is corrected.

(b) Adequate supporting data. (1) The contractor has the burden and obligation to provide adequate supporting data to the contracting officer. Supporting data for a claim, request for equitable adjustment, or demand for payment is necessary not only to satisfy the statutory requirement but also to apprise the contracting officer of the underlying facts and the theory upon which the contractor relies in support of its entitlement to a price adjustment. To be considered adequate, a claim, request for equitable adjustment or demand for payment must be accompanied by supporting data which fulfills these purposes and is otherwise in accordance with the requirements of the Contract Disputes Act. A submission containing the following information will be deemed to have been submitted with adequate supporting data:

(i) A narrative statement of the nature of the event(s), the time when the event(s) occurred, and the causal relationship between the event(s) and the impact on the cost of performance of the contract, including a description of how the event(s) affected scheduled performance;

(ii) A description of the relevant effort the contractor was required to perform in the absence of the event(s);

(iii) A description of the relevant effort the contractor was actually required or will be required to perform;

(iv) A description of components, equipment, and other property involved;

(v) A cost breakdown of the additional effort by element in accordance with the contractor's normal procedures for pricing of changes;

(vi) A description of all property which will no longer be needed by the contractor;

(vii) A description of any delay caused by the event(s);

(viii) A description of any disruption caused by the event(s).

(2) If any submission does not contain the data listed above, the submission shall be reviewed to determine if the data submitted is adequate to meet the requirements of the Contract Disputes Act. The contractor shall be notified of the nature of any deficiency in the supporting data which results in a determination that the submission is not adequate.

(c) Certification (1) A claim, request for equitable adjustment, or demand for payment in excess of \$50,000 must be certified in accordance with the requirements of section 6(c)(1) of the Contract Disputes Act. (See FAR 33.207.) If any submission does not contain a proper certification, the contractor shall be informed of any deficiency in the certification.

(2) A claim, request for equitable adjustment, or demand for payment certified in accordance with DFARS 233.7000(a) shall be considered to meet the certification requirements.

(d) Once a claim, request for equitable adjustment, or demand for payment has been properly certified and accompanied by adequate data, the date of proper certification and submission of adequate supporting data shall be operative for purposes of this subpart, even if additional certification(s) or data submission(s) is required of, or provided by, the contractor, unless the additional certification or data submission is required or provided, because the contractor has submitted a new or essentially new claim, request for equitable adjustment, or demand for payment based on different events.

5243.7005 Solicitation provision and contract clause.

(a) The contracting officer shall insert the provision at 5252.243-9000, Notification of Applicability of 10 U.S.C. 2405, in all solicitations for shipbuilding contracts.

(b) The contracting officer shall insert the clause at 5252.243-9001, Requirements for Adequate Supporting Data and Certification of Any Claim, Request for Equitable Adjustment, or Demand for Payment in all shipbuilding solicitations and shipbuilding contracts.

PART 5252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1. The authority citation is revised to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2405, DOD Directive 5000.35.

2. Part 5252 is amended by adding new sections 5252.243-9000 and 5252.243-9001 to read as follows:

5252.243-9000 Notification of Applicability of 10 U.S.C. 2405.

As prescribed at 5243.7005(a), insert the following provision:

Notification of Applicability of 10 U.S.C. 2405 (1990)

The contract which will result from an award made pursuant to this solicitation is a shipbuilding contract, and, therefore, any claim, request for equitable adjustment, or demand for payment seeking a price adjustment to this contract submitted by the contractor is subject to 10 U.S.C. 2405.

(End of Clause)

5252.243-9001 Requirements for Adequate Supporting Data and Certification of Any Claim, Request for Equitable Adjustment, or Demand for Payment.

As prescribed at 5243.7005(b), insert the following clause in full text:

Requirements for Adequate Supporting Data and Certification of Any Claim, Request for Equitable Adjustment, or Demand for Payment (1990)

(a) This contract is subject to 10 U.S.C. 2405; therefore, a price adjustment will not be made to this contract for an amount set forth in a claim, request for equitable adjustment, or demand for payment (o) incurred due to the preparation, submission, or adjudication of any such claim, request for equitable adjustment, or demand for payment) arising out of events occurring more than 18 months before the submission of the claim, request for equitable adjustment, or demand for payment.

(b) A claim, request for equitable adjustment, or demand for payment is considered to be submitted on the date the contractor's submission is received by the contracting officer accompanied by adequate supporting data for the claim, request for equitable adjustment or demand for payment and the certification required by section 6(c)(1) of the Contract Disputes Act, if the matter is over \$50,000.

(c) Adequate supporting data includes data which is adequate to apprise the contracting officer of the underlying facts and the theory upon which the contractor relies in support of its entitlement to a price adjustment. Adequate supporting data is that data which fulfills these purposes and is otherwise in accordance with the requirements of the Contract Disputes Act. A submission containing the following information will be deemed to have been submitted with adequate supporting data:

(1) A narrative statement of the nature of the event(s), the time when the event(s) occurred, and the causal relationship between the event(s) and the impact on the cost of performance of the contract, including a description of how the event(s) affected scheduled performance;

(2) A description of the relevant effort the contractor was required to perform in the absence of the event(s);

(3) A description of the relevant effort the contractor was actually required or will be required to perform;

(4) A description of components, equipment, and other property involved;

(5) A cost breakdown of the additional effort by element in accordance with the contractor's normal procedures for pricing of changes;

(6) A description of all property which will no longer be needed by the contractor;

(7) A description of any delay caused by the event(s);

(8) A description of any disruption caused by the event(s).

(d) Certification of the claim, request for equitable adjustment, or demand for payment is required if the requested price adjustment is over \$50,000. The certification requirements are those set forth in the clause of this contract entitled Disputes. In order to be a proper certification, the certificate must be executed (1) if the contractor is an individual, by the individual, or (2) if the contractor is not an individual, by a senior company official in charge at the contractor's plant or location involved, or by an officer or general partner of the contractor having overall responsibility for the conduct of the contractor's affairs.

(e) For the purpose of this clause, the following terms have the meanings set forth below.

(1) "Claim" means a written demand or written assertion by the contractor seeking, as a matter of right, a price adjustment to the contract. The theory upon which the contractor seeks the price adjustment does not determine whether a particular matter is a claim. The term includes a submission asserting any theory supporting a price adjustment, including but not limited to constructive change, breach of contract or mistake, which, if valid, would result in contractor entitlement to a price adjustment. A claim does not include a request for equitable adjustment or demand for payment, as defined below.

(2) "Request for equitable adjustment" means a written request for a price adjustment to the contract in accordance with the provisions of a clause which expressly provides for such a price adjustment.

(3) "Demand for payment" means a written demand for payment, other than routine payment in accordance with the payment terms of the contract.

(4) "Events" means the Government action(s), Government inaction(s),

Government conduct, or occurrence(s) which gives rise to the contractor's claim, request for equitable adjustment, or demand for payment. For the purpose of this clause, the date of the final Government action, Government inaction, Government conduct or occurrence is the date on which the 18 month period commences. (For the purpose of this clause, the final Government action, Government inaction, Government conduct or occurrence and the date thereof for specific categories of liability are discussed in NAPS 5243.7002.)

(5) "Price adjustment" means an increase in the fixed price, target price, ceiling price, or final price of a fixed price type contract, an increase in the fee structure of a cost reimbursement type contract, or monetary damages or other payment resulting from a contractor claim, request for equitable adjustment, or demand for payment. An adjustment to the sharing ratio or to any other pricing formula, procedure or provision, which has the effect of increasing the fixed price, target price, ceiling price, final price, or fee of the contract, is a price adjustment. A schedule adjustment, whether requested as part of a submission seeking a price adjustment or as the sole relief, or an adjustment for any matter which, pursuant to the terms of the contract is separate from or not included in the fixed price, target price, ceiling price or final price of a fixed price contract or the fee structure of a cost reimbursement contract, is not a price adjustment. The bilateral definitization of a maximum price modification within the maximum price is not a price adjustment. A routine invoice or other request for payment or reimbursement in accordance with the terms of the contract, even if the dispute, which, if paid, would not result in an increase in the price of the contract is not a price adjustment. For the purpose of this clause, relief granted pursuant to a request for extraordinary contractual relief under Public Law 85-804 does not constitute a price adjustment.

(End of Clause)

Jane M. Virga,

LT, JACC, USNR, Alternate Federal Register Liaison Officer.

[FR Doc. 90-15108 Filed 6-28-90; 8:45 am]

BILLING CODE 3810-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1039

[Ex Parte No. 346 (Sub.-No. 25)]

Rail General Exemption Authority; Lumber or Wood Products

AGENCY: Interstate Commerce Commission.

ACTION: Proposed Rule; Corrected service list and extension of time to file comments.

SUMMARY: By its decision served April 1, 1990 (55 FR 12392, April 3, 1990), this Commission sought public comment on whether to exempt from regulation the transportation by rail of certain specified lumber or wood products, set dates by which parties should indicate their intent to participate, set forth a general time schedule for the filing of comments and replies, and indicated that the exact dates for such filing would be specified at the time of publication of the service list. The service list served May 25, 1990 failed specifically to indicate the dates for filing comments and replies. Moreover, some errors were found in the initial list; and since that time some additional parties have expressed a desire to participate in the proceeding. In the interest of full participation, we are reissuing a corrected service list and extending the deadlines for filing comments and replies to 20 days and 40 days, respectively, from the date of publication of this notice. We remind all parties of record that in order to be considered by this Commission, all comments and replies must be timely served on all parties.

DATES: The dates for filing initial comments and replies are hereby extended to July 18 and August 7, respectively.

ADDRESSES: An original and 10 copies of pleadings referring to Ex Parte No. 346 (Sub-No. 25) should be sent to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Michael Redisch, or Robert Lundy, at (202) 275-7684.

Decided: June 25, 1990.

By the Commission, Edward J. Philbin, Chairman.

Noreta R. McGee,

Secretary.

[FR Doc. 90-15172 Filed 6-28-90; 8:45 am]

BILLING CODE 7035-01-M

Notices

Federal Register

Vol. 55, No. 126

Friday, June 29, 1990

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

Critical Area Treatment, Gabions Wall Road #407 Las Marias, Puerto Rico

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council of Environmental Quality Guidelines (40 CFR part 1500); and the Soil Conservation Service Guidelines (7 CFR part 65), the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Critical Area Treatment, Gabions Wall Road #407 km. 2.10, 3.15 and 3.70, Las Marias, PR.

FOR FURTHER INFORMATION, CONTACT: Humberto Hernández, Director, Caribbean Area, Soil Conservation Service, Federal Building, Chardon Ave. room 839, San Juan, Puerto Rico 00936, telephone (809) 766-5206.

SUPPLEMENTAL INFORMATION: The environmental assessment of this federally assisted action indicated that the project will not cause significant local, regional or national impacts on the environment. As a result of these findings, Humberto Hernández, Director Caribbean Area, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for critical area treatment protection. The planned work of improvement include Gabions Wall Installation on Road #407 km. 2.10, 3.15 and 3.70.

A copy of the Findings of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various federal, commonwealth, and local

agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment is on file and may be reviewed by contacting Humberto Hernández.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the Federal Register.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.901—Resource Conservation and Development—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with state and local officials.)

Dated: June 12, 1990.

Humberto Hernández,
Director, Caribbean Area.

[FR Doc. 90-15115 Filed 6-28-90; 8:45 am]

BILLING CODE 3410-15-M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting; Hawaii Advisory Committee

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Hawaii Advisory Committee to the Commission will convene at 9 a.m. and adjourn at 5 p.m., on August 2, 1990 at the Ramada Renaissance Ala Moana Hotel, 410 Atkinson Drive, Honolulu, Hawaii 96814. The purpose of the meeting is to obtain information on the status of the implementation of the Hawaiian Homes Commission Act.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Andre S. Tatibouet, or Philip Montez, Director of the Western Regional Division (213) 894-3437, (TDD 213/894-0508). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, June 22, 1990.

Wilfredo J. Gonzalez,

Staff Director.

[FR Doc. 90-15141 Filed 6-28-90; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Agency Information Collection Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: National Oceanic and Atmospheric Administration, Commerce.

Title: North Pacific Fishery Management Council Inshore/Offshore Groundfish Allocation Survey.

Form Number: No form number assigned.

Type of Request: New collection.
Burden: 1,576 respondents; 17,005 reporting hours; average hours per response—10.79 hours.

Needs and Uses: Data will support analyses of fishery management plan amendments allocating groundfish between inshore and offshore sectors of the domestic industry. No alternative source is available.

Without these data an adequate impact analysis cannot be performed. The affected public includes U.S.

North Pacific and Bering Sea groundfish harvesters and processors.

Affected Public: Business or other for-profit, small businesses or organizations.

Frequency: One time.

Respondents Obligation: Voluntary.

OMB Desk Officer: Ronald Minsk, 395-7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, room 6622, 14th and Constitution Avenue, NW., Washington, DC 20230. Written comments and recommendations for the proposed information collection should be sent to Ronald Minsk, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: June 22, 1990.
 Edward Michals,
 Departmental Clearance Officer, Office of
 Management and Organization.
 [FR Doc. 90-15080 Filed 6-28-90; 8:45 am]
 BILLING CODE 3510-08-M

**Agency Form Under Review by the
 Office of Management and Budget
 (OMB)**

DOC has submitted to OMB for
 clearance the following proposal for
 collection of information under the
 provisions of the Paperwork Reduction
 Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: 1990 Decennial Census—Were
 You Counted? Program Verification
 Check.

Form Number(s): D-25(R).

Type of Request: New collection—
 Expedited Review.

Burden: 225 hours.

Number of Respondents: 4,500.

Avg Hours Per Response: 3 minutes.

Needs and Uses: The "Were You
 Counted?" (WYC?) campaign provides
 an opportunity for persons who think
 they were not included in the census to
 be counted. Persons can participate in
 the WYC? campaign by calling an 800
 number or completing a WYC? form.
 The purpose of the WYC? Verification
 Check is to verify that persons who
 participated in the WYC? campaign
 actually lived at the addresses they
 provided before they are added to the
 census counts.

Affected Public: Individuals or
 households.

Frequency: One time only.

Respondent's Obligation: Mandatory.
 OMB Desk Officer: Don Arbuckle,
 395-7340.

Copies of the above information
 collection proposal can be obtained by
 calling or writing Edward Michals, DOC
 Clearance Officer, (202) 377-3271,
 Department of Commerce, Room H6622,
 14th and Constitution Avenue, NW.,
 Washington, DC 20230.

Written comments and
 recommendations for the proposed
 information collection should be sent to
 Don Arbuckle, OMB Desk Officer, Room
 3208, New Executive Office Building,
 Washington, DC 20503.

Dated: June 25, 1990.

Edward Michals,

Departmental Clearance Officer, Office of
 Management and Organization.

BILLING CODE 3510-07-M

FORM **D-24**
(6-8-90)U.S. DEPARTMENT OF COMMERCE
BUREAU OF THE CENSUS**Section A — HOUSEHOLD IDENTIFICATION****"WERE YOU COUNTED?"
VERIFICATION
QUESTIONNAIRE****21st Decennial Census — 1990****1. Name****2. Address (House No., street or road/rural route, box No. and Apt. No.)**

City State County or foreign country ZIP Code

3. Telephone number — Including area code **4. Sex** **5. Date of birth**

()

6. DO **7. ARA** **8. Block** **9. Map spot** **10. ID****11. Field representative/Telephone clerk name****Section B — RECORD OF CONTACTS**

Call/ Visit number (1)	Date (2)		Time (3)		Outcome (4)	Comments, callback/appointment, etc. (5)
	Month	Day	Began	Ended		
1			a.m. p.m.	a.m. p.m.	DRAFT	
2			a.m. p.m.	a.m. p.m.		
3			a.m. p.m.	a.m. p.m.		
4			a.m. p.m.	a.m. p.m.		

Section C — RESULTS OF VERIFICATION**1. INTERVIEW STATUS**

- ☐ Interview completed by telephone
☐ Interview completed by personal visit } *Complete item 2, Verification Status*
 Interview not completed —
☐ Unable to locate address
☐ Refusal
☐ Other — Specify _____

2. VERIFICATION STATUS

- ☐ Person lived here on April 1, 1990
☐ Person lives here now, but not on April 1, 1990
 Person not known —
☐ Respondent lived at address on April 1, 1990
☐ Respondent did NOT live at address on April 1, 1990

Section D — TELEPHONE INTERVIEW**1. INTRODUCTION**

Good (morning/afternoon/evening). I am (Your name) from the U.S. Bureau of the Census. We are calling households in the area to make sure everyone was counted in the 1990 census. This survey is authorized by Sections 141 and 193 of Title 13 of the U.S. Code, which protects the confidentiality of your answers. This interview will take about 3 minutes of your time.

2. Is this (Read address in section A, item 2)?

- ☐ Yes — Ask question 3
☐ No } **END INTERVIEW** and conduct a
☐ Refusal } personal visit

3. To whom am I speaking?

Name

**CHECK
ITEM A**

Is person in question 3 the same as person in section A, item 1?

- ☐ Yes, same person — **SKIP** to question 5
☐ No, NOT same person — Ask question 4

Section D — TELEPHONE INTERVIEW — Continued

- | | |
|---|---|
| 4. Do you know (Read name in section A, item 1)? | 1 <input type="checkbox"/> Yes — Ask question 5
2 <input type="checkbox"/> No — SKIP to question 7 |
| 5. Did ((Read name in section A, item 1)/(you) live here April 1, 1990? | 1 <input type="checkbox"/> Yes — SKIP to section F
2 <input type="checkbox"/> No — Ask question 6 |
| 6. (Does (Read name in section A, item 1)/(Do you) live here now? | 1 <input type="checkbox"/> Yes } SKIP to section F
2 <input type="checkbox"/> No } |
| 7. Did you live here on April 1, 1990? | 1 <input type="checkbox"/> Yes } SKIP to section F
2 <input type="checkbox"/> No } |

Section E — PERSONAL VISIT INTERVIEW**1. INTRODUCTION**

I am (Your name) from the U.S. Bureau of the Census. Here is my identification card. We are visiting addresses to check to see if everyone was counted in the 1990 census. This study is authorized by Sections 141 and 193 of Title 13 of the U.S. Code, which protects the confidentiality of your answers. This interview should take about 3 minutes of your time.

2. What is your name?

Name

**CHECK
ITEM A**

Is person in question 2 the same person in section A, item 1?

- 1 ☐ Yes, same person — SKIP to question 4
2 ☐ No, NOT same person — Ask question 3

3. Do you know (Read name in section A, item 1)?

- 1 ☐ Yes — Ask question 4
2 ☐ No — SKIP to question 6

4. Did ((Read name in section A, item 1)/(you) live here April 1, 1990?

- 1 ☐ Yes — SKIP to section F
2 ☐ No — Ask question 5

5. (Does (Read name in section A, item 1)/(Do you) live here now?

- 1 ☐ Yes } SKIP to section F
2 ☐ No }

6. Did you live here on April 1, 1990?

- 1 ☐ Yes
2 ☐ No

Section F — CLOSING STATEMENT

Thank you very much for your cooperation.

As I said at the beginning of this interview, we estimated that this interview would take about 3 minutes. If you have any comments about this estimate, you may send them to:

Associate Director for Management Services
Paperwork Reductions Project (0607-XXXX)
Room 2027, FB 3
Bureau of the Census
Washington, DC 20233

AND

Office of Management and Budget
Office of Information and Regulatory Affairs
Paperwork Reduction Project (0607-XXXX)
Washington, DC 20503

NOTES

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: Survey of Income and Program Participation—1990 Panel Wave 4.

Form Number(s): SIPP-10400, SIPP-10403, SIPP-10405.

Agency Approval Number: 0607-0670.

Type of Request: Revision of a currently approved collection.

Burden: 22,575 hours.

Number of Respondents: 45,150.

Avg Hours Per Response: 30 minutes.

Needs and Uses: The Survey of Income and Program Participation (SIPP) is designed as a continuing series of national panels of interviewed households which are introduced annually with each panel having a duration of about 2½ years in the survey. The survey is molded around a central "core" of labor force and income questions that will remain fixed throughout the life of a panel. The core is periodically supplemented with questions designed to answer specific needs. These supplemental questions are included with the core and are referred to as "topical modules." The topical modules for the 1990 Panel Wave 4 are the following: (1) Assets and Liabilities, (2) Retirement Expectations and Pension Plan Coverage, and (3) Real Estate Property and Vehicles. Wave 4 interviews will be conducted from February through May of 1991.

Affected Public: Individuals or households.

Frequency: One time only.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Don Arbuckle, 395-7340.

Copies of the above information collection proposal can be obtained by calling or writing Edward Michals, DOC Clearance Officer, (202) 377-3271, Department of Commerce, Room H6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Don Arbuckle, OMB Desk Officer, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: June 25, 1990.

Edward Michals,

Department Clearance Officer, Office of Management and Organization.

[FR Doc. 90-15230 Filed 6-28-90; 8:45 am]

BILLING CODE 3510-07-M

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: Survey of Income and Program Participation—1991 Panel Core, Waves 1-8.

Form Number(s): SIPP-11100, SIPP-11001, SIPP-11105.

Agency Approval Number: None.

Type of Request: New collection.

Burden: 29,400 hours.

Number of Respondents: 29,400.

Avg Hours Per Response: 30 minutes.

Needs and Uses: The Survey of Income and Program Participation (SIPP) is used by the Bureau of the Census to collect information concerning the distribution of income received directly as money or indirectly as in-kind benefits. The SIPP is designed as a continuing series of national panels of interviewed households which are introduced annually with each panel having a duration of about 2½ years in the survey. The survey is molded around a central "core" of labor force and income questions that will remain fixed throughout the life of a panel. The Wave 1 questionnaire contains the SIPP's core. The core is periodically supplemented with questions designed to answer specific needs. These supplemental questions are included with the core and are referred to as "topical modules."

Affected Public: Individuals or households.

Frequency: Three times a year.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Don Arbuckle, 395-7340.

Copies of the above information collection proposal can be obtained by calling or writing Edward Michals, DOC Clearance Officer (202) 377-3271, Department of Commerce, Room H6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Don Arbuckle, OMB Desk Officer, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: June 25, 1990.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 90-15231 Filed 6-28-90; 8:45 am]

BILLING CODE 3510-07-M

Bureau of Export Administration

Computer Systems Technical Advisory Committee; Closed Meeting

A meeting of the Computer Systems Technical Advisory Committee will be held July 24 & 25, 1990, 9:30 a.m., in the Herbert C. Hoover Building, room 1617F, 14th Street & Pennsylvania Avenue, NW., Washington, DC. The Committee advises the Office of Technology and Policy Analysis with respect to technical questions that affect the level of export controls applicable to computer systems or technology.

The Committee will meet only in Executive Session to discuss matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on January 5, 1990, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C. 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10 (a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, room 6628, U.S. Department of Commerce, Washington, DC 20230. For further information, contact Lee Ann Carpenter on (202) 377-2583.

Dated: June 25, 1990.

Betty Anne Ferrell,

Director, Technical Advisory Unit.

[FR Doc. 90-15079 Filed 6-28-90; 8:45 am]

BILLING CODE 3510-DT-M

Foreign-Trade Zones Board

[Docket No. 24-90]

Foreign-Trade Zone 66—Wilmington, NC; Application for Subzone Deere-Hitachi Construction Machinery, Kernersville

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the North Carolina Department of Commerce, grantee of FTZ 66, requesting special-purpose subzone status at the hydraulic

excavator manufacturing plant of Deere-Hitachi Construction Machinery Corporation (DHCM) (joint venture between Deere and Company and Hitachi Construction Machinery Company, Ltd.) located in Kernersville, North Carolina, adjacent to the Winston-Salem Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR part 400). It was formally filed on June 18, 1990.

The new DHCM plant is located at West Mountain Street and Perry Road, Kernersville. Established in 1988, the facility (61 acres, 150 employees) began production of hydraulic excavators in mid-1989. Some 70 percent of the components are currently sourced abroad, including chassis, boom cylinders, bucket cylinders, arm cylinders, swing bearings, front idlers, track assemblies, track rollers, springs, propel motor and center joints. Some 25 percent of the plant's production is exported.

Zone procedures would exempt DHCM from Customs duty payments on foreign items used in its exports. On its domestic sales, the company would be able to choose the finished excavator duty rate (2%). Duty rates on the foreign sourced components range from 2.5 to 11.0 percent. The application indicates that zone procedures will help improve DHCM's international competitiveness.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; Howard Cooperman, Regional Director, Inspection and Control, U.S. Customs Service, South Central Region, 909 SE First Avenue, Miami, FL 33131; and, Lt. Colonel Thomas C. Suermann, District Engineer, U.S. Army Engineer District Wilmington, P.O. Box 1890, Wilmington, NC 28402.

Comments concerning the proposed subzone are invited in writing from interested parties. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before August 16, 1990.

A copy of the application is available for public inspection at each of the following locations:

Port Director's Office, U.S. Customs Service, suite 432, 251 N. Main Street, Winston-Salem, NC 27101.

Office of the Executive Secretary,
Foreign-Trade Zones Board, U.S.
Department of Commerce, room 2835,
14th & Pennsylvania Avenue, NW.,
Washington, DC 20230.

Dated: June 22, 1990.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 90-15078 Filed 6-28-90; 8:45 am]

BILLING CODE 3510-DS-M

[Docket 25-90]

Foreign-Trade Zone 45—Portland, OR; Application for Subzone STC Submarine Systems Undersea Cable Plant, Portland

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Port of Portland, grantee of FTZ 45, requesting authority for special-purpose subzone status at the undersea cable manufacturing plant of STC Submarine Systems, Inc. (STC) (subsidiary of STC PLC, UK), located in Portland, Oregon, within the Portland Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR part 400). It was formally filed on June 20, 1990.

The new 17-acre STC plant site (est. 1989) is located at 15540 W. Lombard Street, Portland. The facility, which will employ 200, will produce undersea telecommunication fiber optic cable. Foreign-sourced components account for some 10 percent of the value of the cable, including copper-clad stainless steel wire, copper, jointing kits, repeaters, heavy oil and ink for coloring fibers. Other materials, including steel wire and sheathing, are purchased from domestic sources. All finished cable would be used for intercontinental undersea cable systems.

Zone procedures are being requested for use on products made for export. STC will be exempt from Customs duty payments on the foreign materials used in such products. The application indicates that zone savings will help improve STC's international competitiveness.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: John J. Da Ponte, Jr. (Chairman), Director, Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; Thomas Hardy, District Director, U.S. Customs Service, Pacific Region, 511 NW. Broadway, Federal Building,

Portland, OR 97209; and, Colonel Charles E. Cowan, District Engineer, U.S. Army Engineer District Portland, P.O. Box 2946, Portland, OR 97229.

Comments concerning the proposed subzone are invited in writing from interested parties. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before August 18, 1990.

A copy of the application is available for public inspection at each of the following locations:

U.S. Department of Commerce, District Office, 1220 SW. 3rd Avenue, room 618, Portland, OR 97204.

Office of the Executive Secretary,
Foreign-Trade Zones Board, U.S.
Department of Commerce, room 2835,
14th & Pennsylvania Avenue, NW.,
Washington, DC 20230.

Dated: June 25, 1990.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 90-15235 Filed 6-28-90; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[A-351-605]

Frozen Concentrated Orange Juice From Brazil; Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On January 11, 1990, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on frozen concentrated orange juice from Brazil. The review covers ten producers and/or exporters of this merchandise and the period April 29, 1987 through April 30, 1988.

We gave interested parties an opportunity to comment on our preliminary results. Based on our analysis of the comments received and the correction of certain clerical errors, we have changed the final results for one of the ten producers and/or exporters from those presented in our preliminary results of review.

EFFECTIVE DATE: June 29, 1990.

FOR FURTHER INFORMATION CONTACT: Thomas F. Futtner, Andrew N. Bowen, or Robert J. Marenick, Office of Antidumping Compliance, International Trade Administration, U.S. Department

of Commerce, Washington, DC 20230; telephone (202) 377-5289/5505/5255.

SUPPLEMENTARY INFORMATION:

Background

On January 11, 1990, the Department of Commerce ("the Department") published in the Federal Register (55 FR 1071) the preliminary results of its administrative review of the antidumping duty order on frozen concentrated orange juice from Brazil (52 FR 16426, May 5, 1987). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of frozen concentrated orange juice ("FCOJ"). During the review period such merchandise was classifiable under item 165.29 of the Tariff Schedules of the United States ("TSUS"). The merchandise is currently classifiable under Harmonized Tariff Schedule ("HTS") item 2009.11.00. The TSUS and HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive. Not included is pulp wash which the Department has determined is outside the scope of the antidumping duty order on FCOJ from Brazil (see Scope Decision, October 25, 1989).

The review covers ten producers and/or exporters of FCOJ from Brazil to the United States and the period April 29, 1987 through April 30, 1988. Eight firms, Citrusuco Paulista, Cargill Citrus Ltda., Cooper Citrus Industria Frutesp S.A., Branco Peres Citrus, Citrovale S.A., Citro Mojiana Ltda., Frutropic S.A., and Montecitrus Trading S.A., had shipments to the United States. Two firms, Citro Pectina and Quimicas, failed to respond to the Department's antidumping questionnaire. For these two firms, we used the best information available for assessment and cash deposit purposes. Best information available is the highest rate for a responding firm from the original investigation.

Six firms for which we initiated a review, Industrias Alimenticias Maguary, Industrias J.B. Duarte S.A., Central Citrus, Suvalan, Bascitrus, and Makro Atacadista, had no shipments to the United States during the period of review, and there is no evidence that they ever exported this merchandise to the United States. Should any of these firms begin exporting this merchandise to the United States, they will be treated as new exporters.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received timely comments from the petitioners, Florida Citrus Mutual, Alcoma Packing Co., Berry Citrus Products, Inc., Citrus Belle, Inc., B & W Canning Co., Caulkins Indiantown Citrus Co., and Citrus World, Inc., and one respondent, Cargill Citrus Limitada ("Cacitrus"). We received an untimely comment from one respondent, Citrusuco Paulista, S.A. ("Citrusuco").

Analysis of Comments Received from Petitioners

Comment 1: Petitioners argue that the Department should deduct from Citrusuco Paulista's U.S. price the amounts paid for harbor maintenance, Customs' duties, and Customs' user fees.

Department's Position: We agree. We have deducted all movement expenses, including harbor maintenance and Customs' user fees, from the U.S. price. Citrusuco provided additional information concerning these expenses and we have made the appropriate deductions. Customs' duties were deducted in the preliminary results.

Comment 2: Petitioners argue that the Department should impute a credit expense to Citrusuco's U.S. sales.

Department's Position: We agree. For the final determination, we have calculated a credit expense which reflects the full credit period from the date of shipment to the date of payment for all of Citrusuco's U.S. sales. We made a similar adjustment to Citrusuco's foreign market value.

Comment 3: Petitioners argue that the proper third-country market for the calculation of foreign market value is West Germany or another European market. Despite differences in the physical characteristics of the merchandise sold in the U.S. and European markets, these differences do not result in differences in the cost of manufacture for the two types of FCOJ.

Department's Position: We disagree. We chose Canada because the product sold to Canada was identical to that sold to the United States, while the product sold in European markets had a different brix/acid ratio than that sold to the United States. Moreover, we determined that the volume of sales to Canada was adequate for comparison purposes. This conforms to the Department's regulatory hierarchy for determining an adequate third-country market.

Comment 4: Petitioners argue that the taxes paid on Cacitrus' home market sales must be adjusted to reflect the

effects of hyperinflation before being added to the U.S. price.

Department's Position: We disagree. Cacitrus reported three taxes paid on sales of the merchandise in the home market. The ICM and Finsocial taxes were not paid on export sales. The PIS tax was paid on all sales but the amount collected for export sales was either credited against income taxes owed or refunded where the credit exceeded income taxes owed. Section 772(d) of the Tariff Act requires that indirect taxes imposed upon home market merchandise that have not been collected on exported merchandise by reason of its exportation to the United States be added to the U.S. price to the extent that such taxes are added to or included in the price of such or similar merchandise when sold in the country of exportation.

To account for such an adjustment, we applied the tax rates of the three home market taxes to the U.S. price. The foreign market value, including the home market taxes, was converted into U.S. dollars using the exchange rate in effect on the date of the U.S. sale. There is no need to adjust for inflation since the application of the tax rates results in comparable values in both markets.

Comment 5: Petitioners argue that the Department should not permit Cacitrus a differenced-in-merchandise adjustment for the addition of a preservative to the FCOJ.

Department's Position: We disagree. We allow an adjustment for physical differences in the merchandise when such differences have been verified. We verified that sodium benzoate is added as a preservative to Cacitrus' FCOJ sales in the home market and for several purchase price transactions ("PP").

None of Cacitrus' reported exporter's sale price transactions ("ESP") involved FCOJ containing sodium benzoate. For comparison purposes, we thus adjusted home market prices for the cost of this physical difference in the merchandise. A small number of Cacitrus' purchase price transactions involved FCOJ containing the preservative. For these sales we adjusted home market prices for the differences in the reported preservative costs for sales in the two markets.

Comment 6: Petitioners argue that the Department should not allow Branco Peres to reduce its constructed value by the revenue earned from the sale of "associated products," such as citrus feed pellets, oil and essences, etc.

Department's Position: We disagree. The product in question is primarily animal feed pellets which are processed from the pulp and rind of the orange.

Consistent with our determination in the original investigation (52 FR 8328, March 17, 1987), we have concluded that these are by-products of FCOJ because the production of the pulp and rind was an unavoidable consequence of the production of FCOJ. Therefore, we included all costs incurred for the manufacturing of these products in the cost of production, and we credited the actual revenue from the sale of these by-products against the costs.

Comment 7: Petitioners argue that, for the calculation of Branco Peres' constructed value, the Department should calculate selling, general, and administrative expenses (SG&A) as a percentage of the total cost of manufacturing rather than as a percentage of the cost of manufacturing minus the revenue from by-products.

Department's Position: We disagree. We derived the SG&A figure from the ratio of SG&A expenses to the cost of goods sold as presented on Branco Peres' financial statement. The cost of goods sold on the financial statement is net of the revenue earned from the sale of by-products. Therefore, in the calculation of constructed value we applied this SG&A ratio to the cost of manufacturing minus the by-product revenue. We used this SG&A ratio since it exceeded the statutory minimum of ten percent for general expenses.

Comment 8: Petitioners argue that Branco Peres' reported financial income should be netted against financial expense only to zero, and should not be treated as an overall reduction to cost of production.

Department's Position: We agree. For the calculation of constructed value we offset financial expense with short-term operational income only to zero.

Comment 9: Petitioners argue that the Department should disallow Branco Peres' allocation of current nominal material costs for fruit delivered in prior months. It should continue to calculate material costs on the basis of the actual costs incurred in each month.

Department's Position: We agree. Late payments for fruit purchases were treated as costs in the month they were incurred rather than being deflated to the month in which payment was made.

Comment 10: Petitioners argue that any exchange gains accounted for by the Department in the calculation of Branco Peres' constructed value should be measured against inflation in the home market.

Department's Position: In our calculation of constructed value we did not treat gains from exchange rate variations as a reduction to the cost of production. We considered income accrued from exchange rate variations

to be speculative in nature and not directly related to the cost of production.

Comment 11: Petitioners argue that in the calculation of foreign market value the Department should use Frutesp's deliveries during the period of review which were completed pursuant to long-term contracts established outside the review period.

Department's Position: We disagree. In our calculation of Frutesp's foreign market value, we used all sales whose terms were established during the period of review. The deliveries referred to by the petitioners were made pursuant to sales prior to the review period. Because there were contemporaneous sales within the review period, those sales provide a more accurate assessment of whether U.S. sales were dumped during the review period.

Comment 12: Petitioners argue that the Department should revise its calculations of Frutesp's foreign market value to account for a United Kingdom port duty.

Department's Position: We disagree. We verified that Frutesp reported its U.K. sales net of the port duty in question. Thus, no adjustment for this expense is appropriate.

Comment 13: Petitioners are concerned about the potential for "middleman dumping" through intermediate trading companies.

Department's Position: For the calculation of Montecitrus' foreign market value and U.S. price, we used the price at which Montecitrus sold the product to an unrelated offshore trading company, which in turn resold the product to foreign and U.S. customers.

All Montecitrus' report sales were at or above the minimum export price established by the Government of Brazil. There was no indication that the resales by the unrelated offshore trading company during the period of review were at prices less than the minimum export price at which they were purchased.

Comment 14: Petitioners argue that, where appropriate, the Department should calculate an imputed inventory carrying cost incurred in Brazil prior to exportation.

Department's Position: We agree. Where inventory was maintained in Brazil prior to exportation, we imputed an inventory carrying cost.

Comment 15: Petitioners argue that cash deposits should be required for non-responding firms and for new exporters.

Department's Position: We agree that non-responding firms should be required to post a cash deposit; however, we disagree that the same cash deposit rate

should be imposed upon future entries from a new exporter.

In its preliminary results of review the Department decided to require a cash deposit of 1.96 for the two non-responding firms, Citro Pectina and Quimicas, because the firms did not provide any information in the review.

We will not require a cash deposit for future entries of this merchandise from a new exporter, not covered in this administrative review or in the original investigation, whose first shipments occurred after April 30, 1988, since this would conflict with the Department's administrative practice (See *Elemental Sulfur from Canada* (50 FR 37889, September 18, 1985) and *Certain Dried Heavy Salted Codfish from Canada* (52 FR 42702, November 6, 1987), in which the Department required cash deposits on shipments by new exporters equal to the highest margin found for a responding firm with shipments in the current review period.) Furthermore, after having reviewed a cross-section of firms in this administrative review it is reasonable to conclude that dumping margins for the industry as a whole are *de minimis* for this period of time. Therefore, they provide an accurate referent for estimating cash deposit requirements.

Comment 16: Petitioners argue that pulp wash should be included within the scope of this administrative review.

Department's Position: We disagree. We determined that pulp wash is outside the scope of the antidumping duty order on FCOJ and Brazil (see *Scope Decision*, October 25, 1989).

Comments from Cacitrus

Comment 1: In its calculation of home market credit expenses for purchase price comparisons, the Department mistakenly used the date of sale as the beginning of the credit period, when it should have used the date of shipment. Additionally, the Department neglected to include as part of the credit terms an adjustment for early payment discounts.

Department's Position: We agree. The number of days used to represent the credit period in the home market should be the number of days between the date of shipment and the date of payment. Also, the price upon which the credit expense is based should be the gross price minus the discounts granted for early payment. These changes are reflected in this final determination.

Comment 2: The Department should not use best information available ("BIA") for interest rates to calculate credit expenses for purchase price sales and inventory carrying expenses ("time on water") for ESP transactions. It

should use the verified interest rates reported by Cargill Citro America ("Citro") and Cacitrus.

Department's Position: We agree that, for "time on water" calculations for ESP transactions we should use the average short-term borrowing rates for Cargill, Inc., as reported in Cargill's July 28, 1989 submission to the Department. However, we disagree that we should not use BIA for interest rates to calculate credit expenses for purchase price transactions. Cargill did not furnish complete and verifiable actual interest rates in the home market. Therefore, we will continue to use ACC rates ("adiantamento sobre contrato de cambio", the interest rates charged for advances on exchange contracts) as the best representation of Brazilian interest rates.

Comment 3: The Department mistakenly disregarded 18 U.S. sales transactions in its preliminary determination.

Department's Position: We agree that we inadvertently omitted these U.S. sales and have included them in this final determination.

Comments from Citrusuco

Comment 1: Citrusuco does not consider Florida Citrus Mutual ("FCM") as a petitioner and urges the Department not to consider any comments by FCM since FCM does not have standing in this review. See *Citrusuco Paulista, S.A. vs. United States*, 704 F. Supp. 1075, 1082 (CIT 1988).

Department's Position: While it is not our practice to respond to late comments, the issue raised by Citrusuco has procedural implications for this administrative review.

Our procedural regulations require parties to raise all arguments relevant to the final results in the case brief. (19 CFR 353.38(c)(2).) In the preliminary determination we required that any written comments or case briefs be filed within 30 days of publication of the preliminary determination (see 55 FR 1071, January 11, 1990). Citrusuco did not file a case brief and challenged FCM's standing in this administrative review for the first time in its rebuttal brief filed on February 20, 1990. Therefore, Citrusuco's argument about FCM's standing is untimely. Furthermore, parties may only respond in rebuttal briefs to issues raised in the case briefs and may not raise issues for the first time. (19 CFR 353.38(d).) Therefore, in this administrative review Citrusuco did not timely raise the issue concerning FCM's standing. Even if Citrusuco had timely raised the issue of FCM's standing, FCM's comments on the preliminary determination were the

same as those of other petitioners and cannot be segregated from them. Therefore, FCM's standing in this review is moot and we have addressed the comments in this notice.

Final Results of Review

As a result of the comments received, we have revised our preliminary results for Cargill Citrus Ltda., and we determine the following margins exist for the period April 29, 1987 through April 30, 1988:

Manufacturer/Exporter	Margin (percent)
Citro Pectina.....	1.96
Quimicas.....	1.96
Citrusuco Paulista.....	0.00
Cargill Citrus Ltda.....	0.06
Cooper Citrus Industria Frutesp, S.A.....	0.01
Branco Peres Citrus.....	0.00
Citrovale, S.A.....	0.00
Citro Mojana, Ltda.....	0.00
Frutropic S.A.....	0.34
Montecitrus Trading, S.A.....	0.00

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisal instructions directly to the Customs Service.

Further, as provided by section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties based on the above margins shall be required. Since the margins for Cargill Citrus Ltda., Cooper Citrus Industria Frutesp, S.A., and Frutropic, S.A., are less than 0.5 percent and, therefore, *de minimis* for cash deposit purposes, the Department shall not require a cash deposit of antidumping duties on entries from those firms. For any future entries of this merchandise from a new exporter, not covered in this administrative review or the original investigation, whose first shipments occurred after April 30, 1988, and who is unrelated to any reviewed firm, no cash deposit will be required. These waivers and cash deposit requirements are effective for all shipments of frozen concentrated orange juice from Brazil entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22 (1989).

Dated: June 22, 1990.

Francis J. Sailer

Acting Assistant Secretary for Import Administration.

[FR Doc. 90-15236 Filed 6-28-90; 8:45 am]

BILLING CODE 3510-DS-M

[A-351-606]

Tubeless Steel Disc Wheels From Brazil; Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On January 30, 1990, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on tubeless steel disc wheels from Brazil. The review covers one producer and/or exporter of this merchandise to the United States and the period December 19, 1986 through April 30, 1988.

We gave interested parties an opportunity to comment on the preliminary results. We received comments from the petitioner, The Budd Company, Wheel and Brake Division ("Budd"), and from the respondent, Borlem S.A. Empreendimentos Industriais ("Borlem"). Based on our analysis of the comments received and correction of clerical errors, we have changed the margin from 0.57 percent presented in the preliminary results to 0.44 percent.

EFFECTIVE DATE: June 29, 1990.

FOR FURTHER INFORMATION CONTACT: Arthur N. DuBois or Richard Rimlinger, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377-8312/1130.

SUPPLEMENTARY INFORMATION:

Background

On January 30, 1990, the Department of Commerce ("the Department") published in the *Federal Register* (55 FR 3076) the preliminary results of its administrative review of the antidumping duty order on tubeless steel disc wheels from Brazil (May 28, 1987, 52 FR 19903). We have now completed the administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

Imports covered by this review are shipments of tubeless steel disc wheels, designed to be mounted with pneumatic

tires which have a rim diameter of 22.5 inches or greater, suitable for use on class 6, 7, and 8 trucks, including tractors, and for use on semi-trailers and buses.

During the review period, such merchandise was classifiable under item 692.3230 of the *Tariff Schedules of the United States Annotated* ("TSUSA"). This merchandise is currently classifiable under *Harmonized Tariff Schedule* ("HTS") item number 8716.90.50. TSUSA and HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers one exporter of this merchandise to the United States and the period December 19, 1986 through April 30, 1988.

Analysis of Comments Received

We invited interested parties to comment on the preliminary results. We received written comments from the petitioner, Budd, and from the respondent, Borlem.

Comment 1: Budd argues that the Department should have used sales prices of home market model 3046, instead of models 3107 and 3108, for comparison to U.S. models 2705 and 2835.

Borlem argues that the 3107 and 3108 wheels are the most appropriate wheels for comparison with the 2705 and 2835 due to greater similarity of steel blank inputs. Borlem also argues that during the period of review there were only sporadic production and sales of the 3046 wheel. Borlem had no production of the 3046 model in six of the 17 months of the period of review and only limited production of the model in nine of the remaining 11 months of the period. Thus, in some months of the review there would be no price as a basis of comparison and it would be virtually impossible to calculate a difference-in-merchandise adjustment because of the limited production. Borlem concludes by arguing that in a hyperinflationary economy it is essential that comparisons and difference-in-merchandise adjustments be based on contemporaneous sales.

Department's Position: The Department's policy is to select the identical, or, in the absence of identical, the most similar home market merchandise for comparison with each U.S. model. Due to the greater similarity of the steel blank inputs the Department concludes that both home market models 3107 and 3108 are more similar to U.S. models 2705 and 2835 than home market model 3046. Therefore, no change is warranted.

Comment 2: Budd challenges the difference-in-merchandise adjustment for differences in cost between wheels sold in the United States and similar wheels sold in the home market. Budd states that we should not allow any difference-in-merchandise adjustments for alleged variations between home market wheels with a 22.5-inch diameter and export wheels with the same diameter, that no difference-in-merchandise adjustment is necessary for a wheel with an 8.25-inch rim (wheel width) because Borlem sells wheels with an 8.25-inch rim in both markets, and that no adjustment should be allowed for differences in manufacturing techniques when merchandise falls within a range of acceptable design tolerances, for differences in number and placement of bolt holes, for differences in offset (the depth the disc goes into the hoop relative to the edge of the rim), and for additional machining of mounting surfaces and center holes.

In rebuttal to Budd's contention that only differences in physical size, diameter, and rim size merit an adjustment for differences in merchandise, Borlem cites 19 CFR 353.57 which states, "the Secretary will make reasonable allowance for differences in physical characteristics." Borlem argues that such physical characteristics are not limited solely to variations in physical size. Borlem further argues that finished wheels vary in many ways other than their crude dimensions such as in performance standards. Borlem also argues that disparate performance standards (i.e., maximum load capacity) of wheels may require different weights and strength of steel and differing labor costs. Furthermore, Borlem argues that different wheels may have different disc face designs to meet the aesthetic needs of a particular purchaser.

Finally, Borlem argues that its cost adjustment claims are supported by its replacement cost accounting system which the Department has found to be accurate in past verifications, such as the fair value investigation involving this merchandise, and in a recent review of *Steel Wheels from Brazil*.

Department's Position: We agree with Borlem that difference-in-merchandise adjustments are not limited to differences in size or dimensions, but may incorporate claims for all differences in physical characteristics. Since Borlem's difference-in-merchandise adjustments are linked to its actual cost and accounting records, we have adjusted for differences in merchandise attributable to physical characteristics including those other than size. We have made no change in the difference-in-merchandise

adjustments from those presented in the preliminary results of review.

Comment 3: Budd challenges Borlem's inclusion of such costs as insurance, water, third-party maintenance costs and rental of capital equipment as variable factory overhead expenses. Budd argues that these are fixed costs and must be allocated between foreign and domestic wheels on a volume basis, as opposed to a production-time basis.

Borlem counters by arguing that costs like those in question are directly associated with Borlem's processing costs and are allocated by the firm to each wheel on the basis of the standard processing time for each particular wheel recorded at each of Borlem's cost centers. Borlem further argues that standard processing time for each wheel is directly related to the physical characteristics of each wheel. Therefore, the differences in standard processing time and, as a result, the differences in processing costs, and directly related to the differences in the merchandise under consideration.

Department's Position: As a general rule, the Department considers factory overhead costs which do not vary as production levels change to be fixed factory overhead costs. It is the Department's practice to make difference-in-merchandise adjustments on the basis of differences in material, labor, and variable factory overhead costs attributable to any physical differences in merchandise.

The Department believes that adjusting for variable factory overhead costs is justified in that such costs will vary in proportion to changes in production time, and that if different items being compared require different amounts of production time (attributable to physical differences), then an adjustment should be made to take into account these cost differences. Fixed factory overhead costs, on the other hand, will not vary as production time increases or decreases.

After publication of the preliminary results the Department requested further information on the expenses in question, namely, water, third-party maintenance and insurance expenses and rental of capital equipment, and whether Borlem could give any justification for considering them as variable factory overhead expenses.

After considering Borlem's response the Department has determined that these expenses, while listed as variable, are actually fixed because they are not affected by increases or decreases in production levels or time, and are simply allocated between foreign and domestic production.

Comment 4: Budd contends that Borlem should not be permitted simply to net ICM and IPI taxes (internal value added taxes paid on input products or raw materials which are rebated or not collected if the finished products are exported) against ICM and IPI taxes paid by Borlem for the sales of finished wheels in the home market. Budd argues that unless Borlem can demonstrate that the home market sales always directly cancel out potential refunds on export sales by Borlem, a full refund is not justified. Budd further argues that if there is any lag between the payment of ICM and IPI taxes on raw materials and the return of those funds to Borlem through credits or rebates, then Borlem experiences a real loss due to inflationary pressures in the Brazilian economy. This loss should be accounted for in the Department's calculations.

Borlem claims that, in calculating its difference-in-merchandise and packing adjustments, the firm properly excluded ICM and IPI taxes from input material costs. In the case of export sales, Borlem receives a credit because the materials were used to produce or pack a product that is exported. In the case of home market sales, the firm receives the credit paid on parts and materials netted against the taxes owed on the sales of the finished products. By deducting the taxes from the input costs, it is reflecting the real cost of the input products used to produce and pack the wheels.

Borlem counters any suggestion by the petitioner that there may not be sufficient home market sales to absorb Borlem's ICM and IPI credits associated with Borlem's export sales by citing the fact that the great majority of its sales of this merchandise are in the home market.

Borlem claims that the argument regarding the delay in the repayment of the taxes is without merit because the tax bill is computed and settled on a monthly basis.

Department's Position: There is no basis for Budd's contention that Borlem incurs a "loss" by making its normal monthly tax payments on its purchases of materials and parts used in the manufacture of wheels. We agree with Borlem that to obtain the real cost of input products, these taxes should be deducted from the input products for exported wheels and netted against the sales of finished wheels in the home market when computing the difference-in-merchandise and packing adjustments. The Department believes that this expense is properly calculated on the basis of Borlem's actual costs.

Comment 5: Budd says that ocean freight should have been calculated on a per-ton basis since a weight allocation

would offer a better approximation of the actual financial experience of an importer who deals in different types of wheels. Also, the petitioner argues that insurance costs should have been calculated according to value to account for differences existing between various type of wheels that are shipped at the same time.

Borlem agrees and says that is essentially what it did with respect to the ocean freight allocation. Borlem indicates that the majority of its shipments during the review period consisted of only one wheel type. In such cases, Borlem calculated the per-wheel ocean freight expense by dividing the ocean freight expense for the shipment by the number of wheels in the shipment. In the limited number of cases in which more than one wheel type was shipped, Borlem allocated ocean freight expenses (based on a fixed container expense) to each type of wheel in the shipment based on the relative weights of the wheels in the shipment. After allocating the total ocean freight expense to each product in the shipment, Borlem then divided the allocated amount by the number of each product to obtain a per-wheel ocean freight expense.

With respect to insurance costs, Borlem indicates that it did not calculate a per-wheel home market insurance cost for the firm's home market sales because the amount was considered by Borlem to be insignificant. However, if this adjustment had been made it would have the effect of reducing Borlem's foreign market value and, consequently, Borlem's margin. With respect to U.S. insurance costs, Borlem argues that it did use value to allocate these costs when more than one wheel type was shipped.

Department's Position: We agree with Borlem's freight allocations and are satisfied with these adjustments because they were based on the usual freight allocation methodology, i.e., weight per unit.

We agree that Borlem can choose not to make a claim for home market insurance expenses if it feels that the amount involved is insignificant.

Comment 6: Budd contends that import duties, customs user fees, and harbor maintenance fees should have been deducted from the U.S. price.

Borlem argues that none of these charges were incurred by the firm and, therefore, were not included in the U.S. prices charged to its customers.

Department's Position: Based on information in the record, we determine that, because Borlem did not incur import duties, customs user fees, and

harbor maintenance fees, adjustments for these costs are inappropriate.

Comment 7: Budd alleges under 19 U.S.C. 1677b(5) that the Department should compare home market prices during the review period with home market prices during the original fair value investigation to determine whether Borlem has intentionally engaged in the tactic of establishing a fictitious home market in order to evade the antidumping duty order.

Budd argues further that the Department's cost-of-production review should examine closely the prices paid by Borlem for steel inputs used in the production of tubeless steel disc wheels because market prices in Brazil for steel inputs are not reflective of commercial reality. Budd alleges that Borlem benefits from an upstream subsidy provided to producers of the major raw material input, hot-rolled sheet and coil. Therefore, Budd contends that we should substitute the average world price for steel rather than use the prices that Borlem paid for the steel input.

Borlem argues that since an overwhelming percentage of its sales of the subject merchandise are made in the home market in comparison to its U.S. sales, there is no economic incentive for Borlem to suppress prices in its much larger home market to benefit sales in its much smaller U.S. market. Second, Borlem argues that the fictitious market provision in the antidumping law is intended to address the situation in which an exporter has a high volume of U.S. sales and only a few home market sales, the exact opposite of Borlem's sales situation. Borlem also argues that the record clearly contradicts Budd's allegations of price suppression. Borlem cites the weighted-average prices of specific home market models which have increased from the beginning of the administrative review period to the end, and its March 17, 1989 letter indicating that it did have third-country sales during the review period.

Finally, Borlem declares that Budd misunderstands the cost-of-production analysis under the antidumping law. "The purpose of a cost of production investigation is to determine whether a foreign producer has sufficient home market sales in the ordinary course of business (i.e., above cost) to allow the Department to make the statutorily preferred price-to-price comparisons." Borlem argues that the obvious focus of a cost-of-production analysis is on the producer's actual cost, not its theoretical cost. Borlem concludes that neither alleged Brazilian government assistance to its steel industry, nor the average world price of steel inputs, is relevant to

a cost-of-production analysis in an antidumping review.

Department's Position: Section 1319 of the Omnibus Trade and Competitiveness Act of 1988 ("1988 Act") amended section 773 of the Tariff Act of 1930 to add subsection 773(a)(5) (19 U.S.C. 1677b(5)). This amendment applies only with respect to (1) reviews initiated under sections 736(c) or 751 after the date of enactment of the 1988 Act (August 23, 1988), or (2) reviews initiated under sections 736(c) or 751 pending on the date of enactment when a request for revocation is also pending. Since this review was initiated on June 29, 1988 (53 FR 24470), Budd's claim that section 773(a)(5) applies to this administrative review is incorrect.

Notwithstanding the above error, Budd also fails to support its allegation. Under 19 U.S.C. 773(a)(5), if the Department has reason to believe that a fictitious market is being created by varying movements in the prices of different forms of the merchandise under investigation, the Department is authorized to collect information on the home market sales of all forms of the product, regardless of whether all forms are exported to the United States during the period of review. Budd fails to provide evidence, or even properly to allege, that Borlem has artificially set the home market prices of different forms of the merchandise under investigation.

Finally, based on our examination of the petitioner's allegations and the information submitted by the respondent, we conclude that there is insufficient reason to believe or suspect that sales by Borlem were otherwise intended to establish a fictitious market under 19 U.S.C. 773(a). Budd's allegations contain no specific evidence supporting its claim other than its own vague general conclusions. Moreover, Budd's claim of no third-country sales by Borlem is inaccurate. Finally, Budd's allegations that Borlem benefits from an upstream subsidy on steel inputs is outside the scope of an antidumping duty review.

Comment 8: Budd says that if the Department does consider other domestic models for comparison purposes, then it should investigate whether any of the parts supplied to Borlem were produced by Borlem do Nordeste, a related manufacturer, to see if the difference-in-merchandise adjustments reflected costs normally incurred in transactions between unrelated parties.

Borlem argues that Borlem do Nordeste did not supply any parts for the wheels being reviewed and, moreover, does not have the capacity to make the large truck sizes.

Department's Position: Since the Department did not consider other domestic models for comparison purposes, we did not need to investigate whether any of the parts supplied to Borlem were produced by Borlem do Nordeste. Moreover, as noted above, Borlem has asserted that all its parts for merchandise under review were purchased from unrelated suppliers.

Comment 9: Borlem says that in the preliminary results the Department made a clerical error by inadvertently switching the comparison of the two U.S. models and the two home market models.

Budd points out that on page 12 of its response Borlem identifies the most similar merchandise differently than it does in the rest of its response.

Department's Position: We agree that in the preliminary results we switched the wheels we used for comparison purposes. The most similar models shown on page 12 of Borlem's response were clearly the result of a clerical error, since the rest of the response indicated that the 3108 model (7.5 x 22.5) was most similar to the 2705 model (8.25 x 25.5) and the 3107 model (7.5 x 22.5) was most similar to the 2835 model (8.25 x 22.5). We have corrected this error and have recalculated the results accordingly.

Final Results of the Review

As a result of the comments received and correction of clerical errors, we have revised our preliminary results and we determine that the weighted-average margin for the period December 12, 1987 through April 30, 1988 for Borlem is 0.44.

The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentage stated above. The Department will issue appraisal instructions directly to the Customs Service.

Further, as provided for by section 751(a)(1) of the Tariff Act, since the margin for Borlem is less than 0.5 percent and, therefore, *de minimis* for cash deposit purposes, the Department shall not require a cash deposit of estimated antidumping duties for that firm.

For any future entries of this merchandise from a new exporter not covered in this or prior administrative reviews, whose first shipments occurred after April 30, 1988, and who is unrelated to the reviewed firm, no cash deposit shall be required. These deposit requirements are effective for all shipments of Brazilian tubeless steel disc wheels entered, or withdrawn from warehouse, for consumption on or after

the date of publication of the final results of the administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.22 of the Department's regulations (19 CFR 353.22).

Dated: June 22, 1990.

Francis J. Sailer,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90-15076 Filed 6-28-90; 8:45 am]

BILLING CODE 3510-DS-M

[C-403-802]

Preliminary Affirmative Countervailing Duty Determination: Fresh and Chilled Atlantic Salmon from Norway

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to producers or exporters in Norway of fresh and chilled Atlantic salmon, as described in the "Scope of Investigation" section of this notice. The estimated net subsidy is 0.77 Norwegian Kroner (NOK) per kilogram (2.45 percent *ad valorem*) for all producers or exporters in Norway of fresh and chilled Atlantic salmon. If this investigation proceeds normally, we will make a final determination on or before September 4, 1990.

EFFECTIVE DATE: June 29, 1990.

FOR FURTHER INFORMATION CONTACT: Rick Herring or Beth Graham, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-3530 or 377-4105.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based on our investigation, we preliminarily determine that certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided to producers or exporters in Norway of fresh and chilled Atlantic salmon. For purposes of this investigation, the following programs are preliminarily found to confer subsidies:

- Regional Development Fund Loans and Grants

- National Fishery Bank of Norway
- Loans
- Regional Capital Tax Incentive
- Reduced Payroll Taxes
- Advance Depreciation of Business Assets

Government-Funded Research and Development

We preliminarily determine the estimated net subsidy to be NOK 0.77 per kilogram (2.45 percent *ad valorem*) for all producers or exporters in Norway of fresh and chilled Atlantic salmon.

Case History

Since the publication of the Notice of Initiation in the *Federal Register* (55 FR 11423, March 28, 1990), the following events have occurred. On April 3, 1990, we presented a questionnaire to the Government of Norway in Washington, DC, concerning petitioner's allegations. On May 4, 1990, we postponed the preliminary determination, at the request of petitioner, to no later than June 21, 1990, pursuant to section 703(c)(1)(A) of the Act (55 FR 19767, May 11, 1990). On May 14, 1990, we received a response to our questionnaire from the Government of Norway. On May 25, 1990, we delivered a supplemental/deficiency questionnaire to the Government of Norway. We received a response to this questionnaire on June 12, 1990.

Scope of Investigation

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the U.S. tariff schedules were fully converted to the *Harmonized Tariff Schedule (HTS)*, as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS sub-headings. The HTS sub-headings are provided for convenience and Customs purposes. The written description remains dispositive.

The product covered by this investigation is the species Atlantic salmon (*Salmo salar*) marketed as specified herein; the subject merchandise excludes all other species of salmon: Danube salmon, Chinook (also called "king" or "quinnat"), Coho ("silver"), Sockeye ("redfish" or "blueback"), Humpback ("pink"), and Chum ("dog"). Atlantic salmon is a whole or nearly-whole fish, typically (but not necessarily) marketed gutted, bled, and cleaned, with the head on. The subject merchandise is typically packed in fresh-water ice ("chilled"). Excluded

from the subject merchandise are fillets, steaks, and other cuts of Atlantic salmon. Also excluded are frozen, canned, smoked or otherwise processed Atlantic salmon. Atlantic salmon is currently provided for under HTS sub-heading 0302.12.0002.9. Prior to January 1, 1990, Atlantic salmon was provided for under following HTS sub-headings 0302.12.0060.8 and 0302.12.0065.3. Prior to January 1, 1989, Atlantic salmon was classifiable under item 110.2045 of the *Tariff Schedules of the United States Annotated*.

Analysis of Programs

Due to the large number of producers and exporters of salmon in Norway, we have solicited information from the Norwegian Government on an aggregate or industry-wide basis, rather than from the individual companies involved in the production or exportation of salmon from Norway. Consequently, our subsidy calculations are based on the total amount of benefits provided to the salmon industry and the total volume of salmon sales as reported by the Government of Norway.

For purposes of this preliminary determination, the period for which we are measuring subsidies ("the review period") is calendar year 1989. This review period corresponds to the Government of Norway's fiscal year.

According to the questionnaire responses, it was not possible, given the number of producers in the country, to solicit the requested tax information from every salmon producer. Therefore, to develop information on the usage of the tax programs alleged to benefit producers of Atlantic salmon in Norway, the Government of Norway surveyed producers located in two counties: Rogaland and Nord-Trøndelag. The Government of Norway stated that it believes these two counties are representative of the Atlantic salmon industry. To ensure the impartiality of the data used in this preliminary determination, we also requested that the Government of Norway survey an additional county which we selected, Troms. Tax data from salmon producers in all three counties were used as the basis for calculating the countervailable benefits conferred upon the Norwegian Atlantic salmon industry.

Our policy with respect to grants and forgiven loans is to (1) expense recurring benefits to the year of receipt, and (2) allocate nonrecurring benefits over the useful life of assets in the industry, unless the sum of grants provided under a particular program is less than 0.5 percent of a firm's total or export sales (depending on whether the program is a domestic or export subsidy). For

purposes of this preliminary determination, we have expensed all grants and forgiven loans to the review period since we have inadequate information to determine whether the programs in question provide recurring or nonrecurring benefits.

Consistent with our practice in preliminary determinations, when a response to an allegation denies the existence of a program, receipt of benefits under a program, or eligibility of a company or industry under a program, and the Department has no persuasive evidence showing that the response is incorrect, we accept the response for purposes of the preliminary determination. All such responses, however, are subject to verification. If the response cannot be supported at verification, and a program is otherwise countervailable, the program will be considered a subsidy in the final determination. Based on our analysis of the petition and the responses to our questionnaires, we preliminarily determine the following:

1. Programs Preliminarily Determined to Confer Subsidies

We preliminarily determine that subsidies are being provided to producers or exporters in Norway of fresh and chilled Atlantic salmon under the following programs:

1. Regional Development Fund Loans and Grants

The Regional Development Fund (RDF) was established in 1961 to maintain and strengthen the economic base and to increase employment in regions with low levels of economic activity. Eligibility for RDF assistance is contingent upon geographic location. Only producers or manufacturers located in underdeveloped regions of Norway are eligible for assistance.

The RDF provides loan guarantees, long-term loans and grants. Loan guarantees under the RDF are discussed in the *Programs Preliminarily Determined to be Not Countervailable* section of this notice. RDF loans are provided for capital investment and are made in Norwegian kroner. According to the response of the Government of Norway, the effective interest rate on outstanding loans during the review period was between 12.06 and 12.39 percent.

Loans in the amount of NOK26,240,000 to salmon producers were written off during the review period. Exclusive of those loans written off, there were outstanding loans to salmon producers for which no interest was paid during the review period.

To determine whether loans under this program were provided on terms inconsistent with commercial considerations, we selected as our benchmark the national average long-term interest rate charged by commercial banks for corporate lending. We selected a national average rate because our analysis is on an industry-wide level, rather than on a company-specific basis. We also used a corporate average borrowing rate because, according to the Government of Norway, there are no statistics available on the average cost of borrowing for the salmon industry. During 1989, the effective interest rate on long-term corporate borrowing from commercial banks was 14.9 percent. Comparing this rate to the rate charged under the RDF program, we determine that RDF loans are provided on terms inconsistent with commercial considerations.

Because loans provided under this program are limited to producers and manufacturers located only in specified regions of Norway and are provided on terms inconsistent with commercial considerations, we preliminarily determine them to be countervailable.

Since the interest charged on RDF loans is variable, we could not employ our normal long-term methodology since we cannot calculate a future benefit stream over the term of the loan. Therefore, we used our short-term loan methodology and subtracted interest paid on RDF loans in 1989 from the interest that would have been paid at the benchmark rate of 14.9 percent. The difference is the benefit conferred upon the subject merchandise during the review period.

We are treating the amount of written-off loans as a grant. To calculate the benefit from the loans to salmon producers which the Government of Norway wrote off during 1989, we took the amount written off and deducted from that total the amount of losses recovered by RDF from settlements received in bankruptcy and estate proceedings on loans previously written off. Since we did not have the amount of recovered debts on a salmon-specific basis, we used the recovered losses on a program-wide basis as best information available. According to information from the 1989 annual report of the RDF, the program incurred losses of NOK338,127,700 in 1989, but recovered NOK8,379,104 in losses on loans and loan guarantees previously written off. The resultant percentage of recovered losses is 2.48 percent. We applied that percentage to the amount of loans to salmon producers which were written off during the review period and

subtracted the result from the total amount of written off loans to determine the amount of benefit conferred upon the subject merchandise.

To calculate the benefit for the non-payment of interest on outstanding loans, we treated the amount of interest due and an interest-free, short-term loan. We calculated the benefit in this manner since the interest payments not collected appear to be deferred, not forgiven. Therefore, we calculated the amount of outstanding interest and multiplied that amount by the national average interest rate on commercial short-term loans, which was 14.95 percent during the review period, to calculate the interest savings on those loans. The short-term interest rates for 1989 which we used in calculating the average rate for the year include not only corporate borrowing, but short-term loans to consumers as well. We are using this rate because according to the response, the 1989 average short-term rate for corporate borrowing is not yet available.

We then added: (1) The interest payment differential calculated on outstanding loans; (2) the amount of loans written off (less recovered losses) during the review period; and (3) the calculated interest savings on the loans for which no interest was collected. We divided the result by total volume of fresh and chilled Atlantic salmon sold during the review period to calculate an estimated net subsidy of NOK 0.279 per kilogram (0.89 percent *ad valorem*). (The *ad valorem* rates cited throughout this notice have been calculated based on the total sales value of fresh and chilled Atlantic Salmon.)

The RDF also provides both investment and development grants. Investment grants may be made for the acquisition of new buildings and equipment. These grants are provided on minimum investments of NOK70,000. Business development grants are provided for surveys and planning, product development, market surveys, marketing, initiation of new business undertakings, training, and financial assistance for new enterprises. These grants are provided at a maximum of 50 percent of the external costs of the project. Both investment and business development grants were provided to salmon producers during the review period.

Because grants under the RDF are limited to producers and manufacturers located only in specified regions of Norway, we preliminarily determine them to be countervailable.

To calculate the benefit from the grants, we divided the amount of grants

disbursed during the review period by total volume of fresh and chilled Atlantic salmon sold during the review period to obtain an estimated net subsidy of NOK 0.293 per kilogram (0.93 percent *ad valorem*). The total estimated net subsidy for RDF loans and grants is NOK 0.572 per kilogram (1.82 percent *ad valorem*).

2. National Fishery Bank of Norway Loans

The National Fishery Bank of Norway (NFB) granted loans for the financing of fish farms from 1974 through 1987. On January 1, 1988, the Norwegian Bank for Industry took over the administration of new loans to the fishfarming industry. (For information on loans from the Norwegian Bank for Industry, see section II.2. of this notice.) Loans which had been granted to fishfarmers through 1987 are still administered by the NFB. The NFB provided long-term loans for investment in production equipment and buildings. The interest rates charged on outstanding loans are set by the Norwegian legislature and can vary over time. In 1989, the interest rate charged on outstanding loans under this program was set at 11.5 percent. According to the response of the Government of Norway, there are no other fees or charges, other than interest, associated with loans provided under this program.

In 1989, the NFB wrote off NOK824,000 in loans to salmon producers and NOK136, in interest to salmon producers. Also in that year, there were NOK13,038,386 in loans to salmon producers on which no interest was paid.

To determine whether loans under this program are provided on terms inconsistent with commercial considerations, we used the same benchmark as referred to under the Regional Development Fund program (see section I.1 of this notice). Comparing this benchmark to the interest rate on outstanding loans under this program, we find that loans under this program are provided on terms inconsistent with commercial considerations.

Because the bank's lending was limited to the fishing industry and its loans were provided on terms inconsistent with commercial considerations, we preliminarily determine the program to be countervailable.

We calculated the benefits conferred under this program in the same manner as previously described under the Regional Development Fund program (see section I.1. of this notice). However, unlike written-off loans under the

Regional Development Fund, we did not have information on the percentage of recovered losses of previously written-off loans. Therefore, we were unable to make a recovered loss adjustment on written-off loans under the NFB.

We then added: (1) The interest payment differential calculated on outstanding loans; (2) the amount of loans written off during the review period; and (3) the calculated interest savings on the loans for which no interest was collected. We divided the result by total volume of fresh and chilled Atlantic salmon sold during the review period to calculate an estimated net subsidy of NOK 0.023 per kilogram (0.07 percent *ad valorem*).

e. Regional Capital Tax Incentive

The aim of this program is to encourage investment in regions in northern Norway with a weak industrial base and considerable unemployment. Funds set aside by the taxpayer under this program are deducted from taxable income. These funds must then be invested in capital assets. The maximum amount allowed to be deducted is 15 percent of taxable income. The minimum amount is NOK15,000.

Within five years of setting aside a fund under this program, 100 percent of the fund must be invested. The investment must take place in assets for use in the taxpayer's own business. When setting up the fund, an amount corresponding to 400 percent of the fund must be placed in a special interest-bearing account in a local bank to secure taxes that would have to be paid on the fund in the event that the taxpayer does not meet the obligations for investment under the program. In the year when the fund is wholly or partly invested, a fixed percentage of the invested fund is to be deducted from the depreciable value of the purchased asset. The remaining part of the invested fund is tax-free provided the invested asset is kept in the taxpayers's business for a specified number of years.

Because this program is limited to taxpayers in northern Norway, we preliminarily determine the program to be counteravailable. To calculate the benefit, we took the total amount of funds deducted from taxable income by salmon producers and multiplied that amount by the tax rate of 50.8 percent to determine the amount of tax savings provided in 1989 under this program. We divided this amount by total volume of fresh and chilled Atlantic salmon sold during the review period to calculate an estimated net subsidy of NOK 0.015 per kilogram (0.05 percent *ad valorem*).

As is our established policy, we did not take into account the reduction of

the depreciable value of purchased assets in this calculation because we consider this to be secondary tax effect. (See, for example, *Final Affirmative Countervailing Duty Determination: Certain Fresh Atlantic Groundfish From Canada*, 51 FR 10041, March 24, 1986.)

4. Reduced Payroll Taxes

Under the National Insurance Act, employers are liable for the payment of payroll taxes which are based on a percentage of the wages paid in the course of a year. The employer pays this tax six times a year. Since 1975, the amount of contributions have been geographically differentiated depending upon the municipality to which the employee is liable for taxes. The program is aimed at encouraging employment of persons in underdeveloped areas of Norway. In 1989, Norway was divided into four zones. The tax rates in each of the zones was 16.7 percent, 13.2 percent, 10 percent, and 2.2 percent in Zones one, two, three and four, respectively.

Because this program provides a benefit to specific regions in Norway, we preliminarily determine it to be counteravailable. To calculate the benefit, we multiplied the amount of wages paid by salmon producers in Zones 2, 3, and 4 by their respective payroll tax rates. We then multiplied the wages paid in each of these zones by the payroll tax rate of 16.7 percent that would have been paid had the producers been located in Zone 1. We took the difference between the payroll taxes paid in Zones 2, 3, and 4 and the amount of payroll taxes they would have paid if they had paid the rate applicable in Zone 1. We divided the result by total volume of fresh and chilled Atlantic salmon sold during the review period to obtain an estimated net subsidy of NOK 0.155 per kilogram (0.49 percent *ad valorem*).

5. Advance Depreciation of Business Assets

The purpose of this program is to encourage investment in less-developed areas of Norway by allowing companies located in selected districts of the country to claim a higher rate of depreciation in the year in which capital assets are acquired. Eligible companies may claim an additional 25 or 40 percent depreciation beyond the standard rate of depreciation all companies in Norway may claim. Whether a company may claim an additional depreciation rate of 25 or 40 percent depends on the company's location. This amount of initial depreciation allows a greater part of the price of acquired assets to be

deducted from taxable income in the year of acquisition.

Because only companies located in specific regions of Norway are eligible for this program, we preliminarily determine the program to be counteravailable. To calculate the benefit from this program, we divided the tax savings provided under the program to salmon producers by the total volume of fresh and chilled Atlantic salmon sold during the review period to obtain an estimated net subsidy of NOK 0.002 per kilogram (0.01 percent *ad valorem*).

6. Government-Funded Aquaculture Research and Development

Government-funded aquaculture research primarily consists of basic research and research aimed at long-term economic development of aquaculture in Norway. Most of the companies which receive government funding manufacture goods and equipment for fishfarms both in Norway and abroad. Only a small minority of the fund recipients are fishfarmers.

There is no central agency which handles all aquaculture research and development in Norway. Government-funded research is planned, financed and performed through the following organizations: (1) research councils, (2) universities and colleges, (3) government research councils, (4) institutes for commissioned research, and (5) government financial institutions. Government financial institutions assist in funding developmental projects. The recipients of such grants are usually required to contribute 50 percent of the total project costs.

When the results of government-funded research and development are made public to those both within and out of the country, we find that the assistance is not counteravailable (see, for example, *Final Affirmative Countervailing Duty Determination: Fresh, Chilled and Frozen Pork Products from Canada*, 54 FR 30774, July 24, 1989). According to the response of the Government of Norway, results of government aquaculture research are normally made publically available both in and outside Norway. There are, however, certain exceptions. During the review period, a grant was disbursed for the funding of one project involving a salmon producer in which publication of the results was not required or could be delayed for a number of years. Because the results of that research project will not be made publically available, we preliminarily determine the funding of that project to be counteravailable. To calculate the benefit under this program, we took the amount of the grant

disbursed during the review period and divided that amount by the total volume of fresh and chilled Atlantic salmon sold during the review period to obtain an estimated net subsidy of NOK 0.002 per kilogram (0.01 percent *ad valorem*).

II. Programs Preliminarily Determined to be Not Countervailable

1. Regional Development Fund Loan Guarantees

In addition to the RDF loans and grants discussed above, the RDF provides loan guarantees. Guarantees are provided for loans from commercial banks. RDF will guarantee up to a maximum of 50 percent of a loan, thus sharing the risk of the loan with the commercial bank. The RDF charges a guarantee fee of two percent per annum. According to information obtained by the Department, the granting of loan guarantees is a standard commercial practice in Norway. The fees charged for a loan guarantee vary depending on the creditworthiness of the customer but are generally in the range of one to two percent.

Because the fees charged for loan guarantees under the RDF correspond to the fees charged by commercial banks in Norway, we preliminarily determine that loan guarantees provided under the RDF are not made on terms inconsistent with commercial considerations, and thus are not countervailable.

2. Norwegian Bank for Industry Loans

The Norwegian Bank for Industry (NBI) was established in 1977 to provide medium- and long-term financing for the development, modernization and restructuring of Norwegian industry in accordance with the government's industrial policy. In 1988, the NBI began making loans to fishfarmers. The NBI provides loans to new enterprises and for the expansion and improvement of existing enterprises. The majority of shares are held by the Norwegian government. The rate of interest on loans provided under this program is based on the borrowing costs of the NBI.

According to the response of the Government of Norway, eligibility is not contingent upon export performance, geographic location or industrial sector. During the review period, loans under this program were provided throughout Norway to companies in such industries as mining, food processing, textiles, chemical, metals, shipbuilding, and paper and wood industries. Because the outstanding loans under this program are not limited to a specific enterprise or industry, or group of enterprises or industries, we preliminarily determine this program to be not countervailable.

3. Government Bank of Agriculture Loans and Grants

The Government Bank of Agriculture administers the Norwegian Fund of Development in Agriculture which was created to provide assistance in establishing supplemental income and employment for farmers. The Fund provides both long-term loans and grants to all agricultural producers.

One of the two loans provided to salmon producers during the review period was provided interest-free. The Government of Norway states that it is standard practice under the program to provide interest-free loans. Interest-free loans will be provided if it is determined that the applicant needs an interest-free loan in order to finish a project. The interest-free loan provided to the salmon farmer was provided based on the applicant's financial situation, according to the regulations of the program.

According to the response of the Government of Norway, the Fund provides loans to all agricultural producers. The Government of Norway also states that it is standard practice to provide interest-free loans under this program. Therefore, we preliminarily determine that the program is not limited to a specific enterprise or industry, or group of enterprises or industries, and not countervailable. This is consistent with our policy that agriculture constitutes more than a specific enterprise or industry, or group of enterprises or industries (see, for example, *Final Affirmative Countervailing Duty Determination: Live Swine and Fresh, Chilled and Frozen Pork Products from Canada*, 50 FR 25097, June 16, 1985).

III. Programs Preliminarily Determined to be Not Used

We preliminarily determine that the following programs were not used by producers or exporters in Norway of fresh and chilled Atlantic salmon during the review period.

1. Norwegian Industrial Fund

The Norwegian Industrial Fund is a government institution established to encourage industrial growth and adaptation in order to strengthen the competitive position of Norwegian industry and tourism. The Fund is authorized to provide grants, loans, and loan guarantees. According to the response of the Government of Norway, no grants, loans, or loan guarantees were provided to producers or exporters of the subject merchandise during the review period.

2. Norwegian Central Bank Loans to Salmon Farmers

By Royal Decree of 28 October 1988, 20 licenses were allocated to farm salmon and trout in Finnmark and 10 were allocated in Nord-Troms. In addition to these licenses, the Ministry of Finance recommended a provisional arrangement by which Norges Bank, the Norwegian central bank, would extend government-guaranteed operational loans to these producers. This program took effect in 1989; however, to date, no loans have been granted or guaranteed under this arrangement.

3. Sales Promotion Assistance

The Norwegian Export Council administers a program aimed at export promotion. Funds for this activity come from the budget of the Foreign Ministry. According to the response of the Government of Norway, no disbursements were made to producers or exporters of the subject merchandise during the review period.

4. Special Tax-Free Reserves for Export Development

Under this program, exporters may set aside funds to cover expenses for market development abroad. A maximum of 20 percent of income computed for municipal income tax purposes might be set aside and deducted from income for that year. This program was designed to allow exporters to set aside profit tax-free for a few years before starting a market research and development project abroad. According to the response of the Government of Norway, no producers or exporters of the subject merchandise have used this program.

IV. Programs Preliminarily Determined to Not Exist

We preliminarily determine that the following programs do not exist or were terminated prior to the period of our review:

1. District Development Bank Loans, Loan Guarantees and Investment Grants

According to the response of the Government of Norway, there are no District Development Banks in Norway. Respondent claims that petitioner's allegation was based on a mistranslation of the Regional Development Fund. (See, section I.1. of this notice for a description of the Regional Development Fund.)

2. Norwegian Export Council Financing

According to the response, the Norwegian Export Council does not

offer export financing to Norwegian companies.

3. Regional Development Fund Transport Subsidies

According to the response of the Government of Norway, prior to 1988, the RDF provided grants for the domestic transport of finished and semi-finished products of a certain processing value in accordance with a specified list of commodities. This list did not include fresh and chilled Atlantic salmon. This grant program was designed to reduce the disadvantages of long distances and poor transport facilities in certain areas.

4. Institute for the Financing of Structural Readaptation

According to the response of the Government of Norway, the Norwegian Bank for Industry has operated the programs of the Institute for the Financing of Structural Readaptation since 1977. (See, section II.2. of this notice for a description of the Norwegian Bank for Industry.)

5. Fund for Industrial Enterprises

According to the response of the Government of Norway, there is no Fund for Industrial Enterprises in Norway. Respondent believes petitioner's allegation was based on a mistranslation of the Norwegian Industrial Fund. (See, section III.1. for a description of the Norwegian Industrial Fund.)

6. State Industry Bank

According to the response of the Government of Norway, there is no State Industry Bank in Norway. Respondent believes that petitioner's allegation was based on a mistranslation of the Norwegian Bank for Industry. (See, section II.2. of this notice for a description of the Norwegian Bank for Industry.)

7. Transportation Subsidy for Salmon Farmers

According to the response, the Government of Norway does not provide any transportation subsidies to salmon farmers.

8. Exchange Rate Guarantees

According to the response, the Government of Norway does not administer any exchange rate guarantee programs.

9. Discounting of Export Bills

According to the response, the Government of Norway does not administer any program which discounts export bills.

10. Ministry of Industry Retraining Funds

According to the response, the Norwegian Ministry of Industry has no funds available to help companies meet the cost of retraining workers nor has it previously had such funds.

Verification

In accordance with section 776(b) of the Act, we will verify the information used in making our final determination.

Suspension of Liquidation

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of fresh and chilled Atlantic salmon from Norway which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the *Federal Register* and to require a cash deposit or bond for all entries of this merchandise equal to NOK 0.77 per kilogram. This suspension will remain in effect until further notice.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC (International Trade Commission) of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Investigations, Import Administration.

If our final determination is affirmative, the ITC will make its final determination within 45 days after the Department makes its final determination.

Public Comment

In accordance with 19 CFR 355.38 of the Commerce Department's regulations, we will hold a public hearing, if requested, on August 23, 1990, at 2 p.m. in room 3708, to afford interested parties an opportunity to comment on this preliminary determination. Interested parties who wish to request or to participate in the hearing must submit a request within ten days of the publication of this notice in the *Federal Register* to the Assistant Secretary for Import Administration, U.S. Department of Commerce, room B-099, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, ten copies of the business proprietary version and five copies of the non-proprietary version of the case briefs must be submitted to the Assistant Secretary no later than August 16, 1990. Ten copies of the business proprietary version and five copies of the non-proprietary version of rebuttal briefs must be submitted to the Assistant Secretary no later than August 21, 1990. An interested party may make an affirmative presentation only on arguments included in that party's case or rebuttal brief. Written argument should be submitted in accordance with section 355.38 of the Commerce Department's regulations and will be considered if received within the time limits specified in this notice.

This determination is published pursuant to section 703(f) of the Act (19 U.S.C. 1671b(f)).

Dated: June 21, 1990.

Francis J. Sailer,
Acting Assistant Secretary for Import Administration.

[FR Doc. 90-15077 Filed 6-28-90; 8:45 am]

BILLING CODE 3510-DS-M

Short Supply Determinations: Welding Quality Steel Billets

AGENCY: Import Administration/ International Trade Administration, Commerce.

ACTION: Notice of short-supply determination on certain welding quality steel billets.

SHORT-SUPPLY REVIEW NUMBER: 18.

SUMMARY: The Secretary of Commerce ("Secretary") determines that 17,000 metric tons of certain welding quality steel billets are in short supply for June-September 1990 under the U.S.-Finland steel arrangement.

EFFECTIVE DATE: June 22, 1990.

FOR FURTHER INFORMATION CONTACT: James C. Doyle or Richard O. Weible, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, room 7866, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-0165 or (202) 377-0159.

SUPPLEMENTARY INFORMATION: On May 25, 1990, the Secretary received an adequate short-supply petition from American Steel and Wire Corporation ("ASW") requesting a short-supply allowance for 17,000 metric tons of

certain welding quality steel billets. The request was for material during June-September 1990 under Article 8 of the Arrangement Between the Government of Finland and the Government of the United States of America Concerning Trade in Certain Steel Products. ASW is requesting short supply because its regular supplier has exhausted its allotment of regular export licenses. In addition, ASW notes that various U.S. producers are unable to direct cast these billets, have no available capacity, or cannot meet ASW's residual or dimensional requirements. The Secretary conducted this review pursuant to section 4(b)(4)(A) of the Steel Trade Liberalization Program Implementation Act, Public Law No. 101-221, 103 Stat. 1886 (1989) ("the Act") and § 357.102 of the Department of Commerce's Short-Supply Regulations, published in the Federal Register on January 12, 1990, 55 FR 1348 ("Commerce's Short-Supply Regulations").

The requested material meets the following specifications:

Dimensions (and tolerances): 130 mm square (± 2 mm) \times 9.4-10.3 meters (no shorts);

Surface condition: Free of cracks and mechanical defects, pinholes shall not exceed 2mm depth;

Corner radius: 6mm \pm 2mm;

Twist: 5 degree max/length of billets;

Straightness: 13mm max out-of-straight in any 1.5 meters, max 76mm out-of-straight over full billet length, no hooked ends;

Squareness: Rhomboid sections with uneven diagonals more than 8mm are unacceptable;

Ends: Perpendicular to longitudinal axis, free of detachable saw burrs, fins, shear lips, tapered cuts are unacceptable, mushroomed ends must not exceed 6mm/side, no open split ends; **Deoxidization practice and grain size:** Silicon killed, coarse grain;

Grades: 70S-3, 70S-3 (IMP), 70S-6, and ER 70S-7; All billets must be produced from direct cast steel, include controlled and certified product chemical analyses, and possess the following copper residual limits: Grades 70S-3, 70S-3 (IMP), and 70S-6: 0.07 max; Grade ER 70S-7: 0.100 max.

ACTION: On May 25, 1990, the Secretary established an official record on this short-supply request (Case Number 18) in the Central Records Unit, room B-099, Import Administration, U.S. Department of Commerce, at the above address. On June 5, 1990, the Secretary published a notice in the Federal Register announcing a review of this request and soliciting comments from interested parties. Comments were required to be

received no later than June 12, 1990, and interested parties were invited to file replies to any comments not later than five days after that date. In order to determine whether this product could be supplied to ASW during June-September 1990, the Secretary sent questionnaires to Inland Steel Industries ("Inland"), Republic Engineered Steels ("Republic"), USX Corporation ("USX"), The Timken Company ("Timken"), Raritan River Steel Company ("Raritan"), Bethlehem Steel Corporation ("Bethlehem"), Georgetown Steel Company ("Georgetown"), and North Star Steel Texas, Inc. ("North Star"). The Secretary received questionnaire responses from all of the parties to which questionnaires were sent (except North Star) and three comments to the Federal Register notice.

QUESTIONNAIRE RESPONSES: Inland, Republic, and Georgetown indicated that they could not supply billets of the type included in this request because they either do not make welding quality billets, or cannot meet ASW's dimensional specifications. Raritan noted that it was not interested in supplying this product to ASW. USX noted that it no longer produces this material. Bethlehem and Timken indicated that they could each supply billets meeting ASW's specifications and could meet its entire tonnage requirements within the noted time frame. Both Bethlehem and Timken noted in their responses that they had produced billets very similar to those required by ASW. However, both companies noted they could supply this material only from a rolling rather than direct cast method.

On June 14, 1990, ASW submitted comments supporting its direct cast specification, noting that all of its short-supply requests in the past for welding quality billets have been for direct cast billets. Also, the direct cast billet requirement "is clearly stated in our specifications and is a requirement of our customers."

On June 15, 1990, the Secretary received comments from National-Standard Company ("National-Standard") and Eagle Wire Company, Incorporated ("Eagle Wire"). Both of these companies are customers of ASW and both indicated that the welding quality wire rod they require from ASW must be manufactured from direct cast billets.

CONCLUSION: Potential domestic suppliers of welding quality steel billets are either unable or unwilling to meet all the specifications required by ASW and its customers. Additionally, ASW has noted that its foreign supplier already

has exhausted its supply of regular export licenses for this product. Therefore, the Secretary determines that short-supply exists with respect to the requested product. Pursuant to section 4(b)(4)(A) of the Act, and § 357.102 of Commerce's Short-Supply Regulations, the Secretary grants a short-supply allowance for 17,000 metric tons of the requested billets for June-September 1990.

Dated: June 22, 1990.

Francis J. Sailer,
Acting Assistant Secretary for Import
Administration.

[FR Doc. 90-15237 Filed 6-28-90; 8:45 am]

BILLING CODE 3510-D9-M

National Oceanic and Atmospheric Administration

South Atlantic Fishery Management Council; Public Hearing

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of a public hearing and request for comments.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold a public hearing and provide a comment period to solicit public opinion on a proposed addition to Amendment 1 to the Fishery Management Plan for Atlantic Swordfish. The Council is considering new and alternative means for controlling imports of swordfish from the Western North Atlantic stock as part of Amendment 1. Although several options for restricting imports were previously taken to public hearings on Amendment 1, these specific new and alternative options were not included in prior public hearings.

DATES: The public hearing will be held on July 27, 1990, 1-5 p.m. Written comments will be accepted through August 3, 1990.

ADDRESSES: All written comments should be addressed to Robert K. Mahood, Executive Director, South Atlantic Fishery Management Council, One Southport Circle, suite 306, Charleston, SC 29407-4699.

The hearing is scheduled to be held at the Department of Commerce Auditorium, Herbert C. Hoover Building, 14th and Constitution Avenue NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Robert K. Mahood, Executive Director, South Atlantic Fishery Management Council, (803) 571-4366.

SUPPLEMENTARY INFORMATION: The intended effect of controlling imports of

swordfish from the Western North Atlantic stock under Amendment 1 is to discourage U.S. vessels from avoiding domestic regulations by landing swordfish in foreign ports and to discourage foreign vessels from increasing their catch from the same stock because of a possible reduction in U.S. landings. The Council believes these management objectives are important to ensure the maximum swordfish conservation benefits of Amendment 1.

Richard H. Schaefer,

Director of Office of Fisheries, Conservation and Management, National Marine Fisheries Service.

[FR Doc. 90-15226 Filed 6-28-90; 8:45 am]

BILLING CODE 3510-22-M

[Modification No. 1 to Permit No. 655]

Marine Mammals; Permit Modification; Dr. Randall S. Wells (P319B)

Notice is hereby given that pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216) Scientific Research Permit No. 655 issued to Dr. Randall S. Wells, Dolphin Biology Research Associates, c/o Long Marine Laboratory, 100 Shaffer Road, Santa Cruz, California 95060 on December 20, 1988 (53 FR 53050) is modified as follows:

The following is added to section A:

2. Three (3) of the above authorized dolphins may be attached with satellite-monitored radio transmitters and VHF tags to the dorsal fins.

Section B.3 is deleted and replaced by:

3. The Holder shall submit a death report within 24 hours of the death of any animal during the authorized activities. If two animals die during the course of the research activities the Holder shall suspend field activities and submit a mortality report detailing the circumstances of the events leading to the deaths. NMFS will review and revise the handling procedures and research protocol, if necessary, to ensure that additional mortalities do not occur. If following tagging, there is any uncertainty as to the tagged animal's survival or well-being, the research activities shall be suspended and a report submitted to the Service, for review by the Service, in consultation with the Commission.

This modification becomes effective upon publication in the Federal Register.

Documents in connection with the above modification are available for review by appointment in the following offices:

Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, 1335 East West Highway, room 7324, Silver Spring, Maryland 20910 (301/427-2289);

Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702 (813/893-3141 or FTS 828-3141);

Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731 (213/514-6196 or FTS 795-6196); and

Director, Northeast Region, National Marine Fisheries Service, One Blackburn Drive, Gloucester, Massachusetts 01930 (617/281-3600 or FTS 837-9200).

Dated: June 21, 1990.

Nancy Foster,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 90-15105 Filed 6-28-90; 8:45 am]

BILLING CODE 3510-22-M

Endangered Species; Issuance of Modification #1 to Permit No. 696; Gulf Specimen Marine Laboratories, Inc.

On April 20, 1990, notice was published in the Federal Register (55 FR 14993) that an application for modification had been filed by the Gulf Specimen Marine Laboratories, Inc., P.O. Box 237, Panacea, Florida, 32346, to increase the number of Kemp's ridley turtles taken from 20 individuals to 100 individuals, and to modify the exiting permit period from December 22, 1989 - December 22, 1990 to May 1, 1990-April 30, 1991.

Notice is hereby given that on June 13, 1990, as authorized by the provisions of the Endangered Species Act of 1973, the National Marine Fisheries Service issued a modification for the above taking, subject to certain conditions set forth in the permit issued on December 22, 1989.

Issuance of this modification, as required by the Endangered Species Act of 1973, is based on the finding that such modification: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which is the subject of the modification; and (3) will be consistent with the purposes and policies set forth in section 2 of the Act. This modification was also issued in accordance with and is subject to parts 220-222 of title 50 CFR, of the National Marine Fisheries Service regulations governing endangered species permits.

The original Permit is available for review in the following offices.

Office of Protected Resources, National Marine Fisheries Service, 1335 East West Hwy., room 7324, Silver Spring, Maryland 20910; and

Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Blvd., St. Petersburg, FL 33702.

Dated: June 13, 1990.

Nancy Foster,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 90-15104 Filed 6-28-90; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Issuance of Modification; North Gulf Oceanic

Notice is hereby given that pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216) and the regulations governing endangered species permits (50 CFR parts 217-222), Scientific Research Permit No. 618 issued to North Gulf Oceanic Society, P.O. Box 15244, Homer, Alaska 99603, published on January 28, 1988 (53 FR 2070) is modified in the following manner:

Section A.1. is changed and A.2. is added:

1. Up to 200 humpback whales (*Megaptera novaeangliae*) may be inadvertently harassed annually for three years while conducting photo-identification studies. Animals may be encountered and photographed more than once; although during any single encounter no more than three attempts may be made to approach a single individual, cow/calf pair, or discrete group of animals within 100 yards.

2. During any single encounter, each approach of an animal within a distance less than 100 yards shall be counted as a take against the authorized number.

Special Condition B.4.f. is added:

f. the number of times each animal was approached, the precise number of cow/calf pairs approached, and the distance(s) of approaches to cow/calf pairs.

This modification becomes effective upon publication in the Federal Register.

This modification is being implemented to clarify the nature of the takings authorized under the original permit. It does not authorize any additional taking to what was originally contemplated by the permit holder in his permit application and therefore will not result in any additional risk or disadvantage to the individual whales or their population.

Documents submitted in connection with the permit are available for review in the following offices:

By appointment: Office of Protected Resources, Permit Division, National Marine Fisheries Service, 1335 East

West Highway, suite 7324, Silver Spring, MD 20910

Director, Alaska Region, National Marine Fisheries Service, 709 West 9th Street, Federal Building, Juneau, AK 99802; and

Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, CA 90731-7415.

Dated: June 20, 1990.

Nancy Foster,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 90-15103 Filed 6-28-90; 8:45 am]

BILLING CODE 3510-08-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishment of a Special Regime Limit and Sublimit for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the United Mexican States

June 25, 1990.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing a limit and sublimit.

EFFECTIVE DATE: July 2, 1990.

FOR FURTHER INFORMATION CONTACT: Jerome Turtola, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 535-9481. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The Memorandum of Understanding (MOU) dated February 9, 1990, establishes a Special Regime limit for Categories 336/636, with a Normal Regime sublimit for products not qualifying for entry under the Special Regime Program, for the period July 1, 1990 through December 31, 1990.

A description of the textile and apparel categories in terms of HTS numbers is available in the Correlation: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 54 FR 50797, published on

December 11, 1989). Also see 55 FR 15259, published on April 23, 1990.

Requirements for participation in the Special Regime are available in Federal Register notices 53 FR 15724, published on May 3, 1988; 53 FR 32421, published on August 25, 1988; and 54 FR 50425, published on December 6, 1989.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the MOU dated February 9, 1990, but are designed to assist only in the implementation of certain of its provisions.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

June 25, 1990.

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1986; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of February 13, 1988, as amended by the Memorandum of Understanding dated February 9, 1990, between the Governments of the United States and the United Mexican States; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on July 2, 1990, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in Categories 336/636, produced or manufactured in Mexico and exported from Mexico during the six-month period which begins on July 1, 1990 and extends through December 31, 1990, in excess of the following levels:

Category	Special regime limit
336/636.....	200,000 dozen. Normal regime sublimit (not subject to the special regime)
336/636.....	100,000 dozen.

Imports charged to Categories 336/636 for the periods beginning on January 1, 1989 and extending through December 31, 1989 and January 1, 1990 and extending through June 30, 1990 shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for these periods have been exhausted by previous entries, such goods shall be subject to the sublimit set forth in this directive.

Textile products in Categories 336/636 which are re-exported from Mexico to the United States under provisions of the Special Regime on and after July 1, 1990 must be accompanied by a properly certified Form ITA-370P.

Any shipment for entry under the Special Regime Program which is not accompanied by a valid and correct certification and Shippers Export Declaration (Form ITA-370P) in accordance with the provisions of the certification requirements established in the directive of August 22, 1988, as amended, shall be denied entry. Invoices visaed for Special Regime shall include only products that are subject to the Special Regime or entry will be denied.

Shipments of products in Categories 336/636 covered by the Special Regime, but that are not subject to the Special Regime, are subject to the applicable sublimit listed in this directive.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 90-15234 Filed 6-28-90; 8:45 am]

BILLING CODE 3510-08-M

Establishment of Guaranteed Access Levels for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Trinidad and Tobago

June 25, 1990.

AGENCY: Committee for Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing guaranteed access levels.

EFFECTIVE: July 2, 1990.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The Bilateral Cotton and Man-Made Fiber Textile Agreement, effected by exchange of notes dated October 23, 1986, as amended by a Memorandum of Understanding (MOU) dated November 27, 1989, between the Governments of the United States and Trinidad and Tobago establishes guaranteed access levels for certain cotton and man-made fiber textile products, produced or manufactured in Trinidad and Tobago and exported during the period July 1, 1990 through December 31, 1990.

A description of the textile and apparel categories in terms of HTS members is available in the

CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 54 FR 50797, published on December 11, 1989).

Requirements for participation in the Special Access Program are available in Federal Register notices 51 FR 21208, published on June 11, 1986; 52 FR 26057, published on July 10, 1987; 52 FR 28588, published on July 31, 1987; 54 FR 50425, published on December 6, 1989; and 54 FR 53172, published on December 27, 1989.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement and the November 27, 1989 MOU, but are designed to assist only in the implementation of certain of their provisions.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

June 25, 1990.

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); pursuant to the Bilateral Cotton and Man-Made Fiber Textile Agreement, effected by exchange of notes dated October 23, 1986, as amended, between the Governments of the United States and Trinidad and Tobago; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, and the Special access Program as set forth in 51 FR 21208 (June 11, 1986), 52 FR 26057 (July 10, 1987) and 54 FR 50425 (December 6, 1989), July 2, 1990, guaranteed access levels are established for properly certified textile products assembled in Trinidad and Tobago from fabric formed and cut in the United States in cotton and man-made fiber textile products in the following categories which are exported from Trinidad and Tobago during the period July 1, 1990 through December 31, 1990:

Category	Guaranteed access level
331/631.....	100,000 dozen pairs.
349/649.....	100,000 dozen.
350/650.....	50,000 dozen.
351/651.....	50,000 dozen.

Any shipment for entry under the Special Access Program which is not accompanied by a valid and correct certification and Export Declaration (Form TTA-370P) in accordance with the provisions of the certification requirements established in the directive of July 28, 1987, as amended, shall be denied entry unless the Government of Trinidad and Tobago authorizes the entry and any charges to the appropriate designated consultation levels. Any shipment which is declared for

entry under the Special Access Program but found not to qualify shall be denied entry into the United States.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 90-15081 Filed 6-28-90; 8:45 am]

BILLING CODE 3510-DR-M

Announcement of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the Republic of Turkey

June 25, 1990.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits for a new agreement year.

EFFECTIVE DATE: July 2, 1990.

FOR FURTHER INFORMATION CONTACT: Anne Novak, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 343-6582. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current bilateral textile agreement between the Government of the United States and the Republic of Turkey establishes limits for the period beginning on July 1, 1990 and extending through June 30, 1991.

A copy of the agreement is available from the Textiles Division, Bureau of Economic and Business Affairs, U.S. Department of State, (202) 647-1998.

A description of the textile and apparel categories in terms of HTS numbers is available in the Correlation: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 54 FR 50797, published on December 11, 1989).

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Dated: June 20, 1990.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

June 25, 1990.

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1986; pursuant to the Bilateral Textile Agreement, effected by exchange of notes dated October 19, 1988 and November 16, 1988, as amended, between the Governments of the United States and the Republic of Turkey; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on July 2, 1990, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the following categories, produced or manufactured in Turkey and exported during the period which begins on July 1, 1990 and extends through June 30, 1991, in excess of the following restraint limits:

Category	12-Mo. limit
219, 313, 314, 315, 317, 326, 617, 625, 626, 627, and 628, as a group.	91,128,652 square meters of which not more than 21,138,136 square meters shall be in 219, 25,835,499 square meters shall be in 313, 15,031,563 square meters shall be in 314, 20,198,663 square meters shall be in 315, 21,138,136 square meters shall be in 317, 2,348,682 square meters shall be in 326, 14,092,091 square meters shall be in 617, 2,348,682 square meters shall be in 625, 2,348,682 square meters shall be in 626, 2,348,682 square meters shall be in 627, 2,348,682 square meters shall be in 628.
Limits not in a group:	
200.....	764,485 kilograms.
237.....	140,450 dozen.
300/301.....	3,722,225 kilograms.
335.....	104,495 dozen.
336/636.....	261,820 dozen.
338/339.....	1,566,680 dozen of which not more than 1,022,476 dozen shall be Categories 338-S/339-S. ¹

Category	12-Mo. limit
340/640	584,064 dozen of which not more than 233,626 dozen shall be in shirts made from fabric of two or more colors in the warp and/or the filling in Categories 340-Y/640-Y. ²
341	567,840 dozen of which not more than 198,744 dozen shall be in blouses made from fabric of two or more colors in the warp and/or the filling in Category 341-Y. ²
342/642	315,619 dozen
347/348	1,594,770 dozen of which not more than 744,385 dozen shall be in trousers in Categories 347-T/348-T. ⁴
350	167,310 dozen.
351/651	280,900 dozen.
361	561,800 numbers.
369-S ⁵	830,740 kilograms.
410/624	850,000 square meters of which not more than 550,000 square meters shall be in Category 410.
448	25,000 dozen.
604	958,918 kilograms.

¹ Category 338-S: only HTS numbers
 6103.22.0050, 6105.10.0010, 6105.10.0030,
 6105.90.3010, 6109.10.0027, 6110.20.1025,
 6110.20.2040, 6110.02.02065, 6110.90.0068,
 6112.11.0030 and 6114.20.0005; Category 339-S:
 only HTS numbers 6104.22.0060, 6104.29.2046,
 6106.10.0010, 6106.10.0030, 6106.90.2010,
 6106.90.3010, 6109.10.0070, 6110.20.1030,
 6110.20.2045, 6110.20.2075, 6110.90.0070,
 6112.11.0040, 6114.20.0010 and 6117.90.0022.

² Category 340-Y: only HTS numbers
 6205.20.2015, 6205.20.2020, 6205.20.2046,
 6205.20.2050 and 6205.20.2060; Category 640-Y:
 only HTS numbers 6205.30.2010, 6205.30.2020,
 6205.30.2050 and 6205.30.2060.

³ Category 341-Y: only HTS numbers
 6204.22.3060, 6206.30.3010 and 6206.30.3030.

⁴ Category 347-T: only HTS numbers
 6103.19.2015, 6103.19.4020, 6103.22.0030,
 6103.42.1020, 6103.42.1040, 6103.49.3010,
 6112.11.0050, 6113.00.0035, 6203.19.1020,
 6203.19.4020, 6203.22.3020, 6203.42.4005,
 6203.42.4010, 6203.42.4015, 6203.42.4025,
 6203.42.4035, 6203.42.4045, 6203.49.3020,
 6210.40.2030, 6211.20.1520, 6211.20.3010 and
 6211.32.0040; Category 348-T: only 6104.12.0030,
 6104.19.2030, 6104.22.0040, 6104.29.2034,
 6104.62.2010, 6104.62.2025, 6104.69.3022,
 6112.11.0060, 6113.00.0040, 6117.90.0042,
 6204.12.0030, 6204.19.3030, 6204.22.3040,
 6204.29.4034, 6204.62.3000, 6204.62.4005,
 6204.62.4010, 6204.62.4020, 6204.62.4030,
 6204.62.4040, 6204.62.4050, 6204.69.3010,
 6204.69.9010, 6210.50.2030, 6211.20.1550,
 6211.20.6010, 6211.42.0030 and 6217.90.0050.

⁵ Category 369-S: only HTS number
 6307.10.2005.

Imports charged to these category limits, except Categories 410/624 and 448, for the periods July 1, 1989 through June 30, 1990 and December 1, 1989 through June 30, 1990, shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for this period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 90-15233 Filed 6-28-90; 8:45 am]

BILLING CODE 3510-DR-M

Amendment of Visa Requirements To Include Coverage of Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Turkey

June 25, 1990.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs amending visa requirements.

EFFECTIVE DATE: July 2, 1990.

FOR FURTHER INFORMATION CONTACT:

Anne Novak, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

SUPPLEMENTARY INFORMATION:

Authority. Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The existing visa arrangement between the Governments of the United States and the Republic of Turkey is being amended to include the coverage of Categories 351/651.

A description of the textile and apparel categories in terms of HTS numbers is available in the Correlation: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 54 FR 50797, published on December 11, 1989). Also see 52 FR 6859, published on March 5, 1987.

Dated: June 26, 1990.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

June 25, 1990.

Commissioner of Customs,
 Department of the Treasury, Washington,
 D.C. 20229

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on March 2, 1987, as amended, by the Chairman, Committee for the Implementation of Textile Agreements, that directed you to

prohibit entry of certain cotton, wool and man-made fiber textile products, produced or manufactured in Turkey, for which the Government of the Republic of Turkey has not issued an appropriate visa.

Effective on July 2, 1990, you are directed to amend further the directive of March 2, 1987 to include coverage of Categories 351/651. Merchandise in Categories 351/651, produced or manufactured in Turkey and exported from Turkey on and after July 1, 1990 must be accompanied by either the correct merged category or the correct category corresponding to the actual shipment.

Merchandise exported from Turkey prior to July 1, 1990 shall not be subject to visa requirements.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 90-15232 Filed 6-28-90; 8:45 am]

BILLING CODE 3510-DR-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1990; Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to Procurement List 1990 commodities and military resale commodities to be produced and services to be provided by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: July 30, 1990.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman, (703) 557-1145.

SUPPLEMENTARY INFORMATION: On April 27, May 4, 11 and 18, 1990, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (55 FR 17804, 18743, 19772 and 20624) of proposed additions to Procurement List 1990, which was published on November 3, 1989 (54 FR 46540).

After consideration of the material presented to it concerning capability of qualified workshops to produce the commodities, military resale

commodities and provide the services at a fair market price and impact of the addition on the current or most recent contractors, the Committee has determined that the commodities, military resale commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c and 41 CFR 51-2.6.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

- The actions will not result in any additional reporting, recordkeeping or other compliance requirements.
- The actions will not have a serious economic impact on any contractors for the commodities, military resale commodities and services listed.
- The actions will result in authorizing small entities to produce the commodities, military resale commodities and provide the services procured by the Government.

Accordingly, the following commodities, military resale commodities and services are hereby added to Procurement List 1990:

Commodities

Strap, Webbing
5340-00-126-9011
5340-00-479-2947
Ink, Marking Stencil, Opaque
7510-00-183-7697
7510-00-183-7698
7510-00-469-7910
7510-00-419-9564

Military Resale Item No. and Name

662 Web, Cargo, Large Car Top
663 Web, Cargo, Small Car Top
664 Web, Cargo, Large Truck
665 Web, Cargo, Small Truck

Services

Grounds Maintenance
U.S. Army Reserve Center
Caesar Creek Lake, Ohio
Janitorial/Custodial
Lemma-Whyman U.S. Army Reserve Center
Charlotte Street
Canandaigua, New York
Janitorial/Custodial
Federal Building and Post Office
425 Juliana Street
Parkersburg, West Virginia
Repacking
Mare Island Naval Shipyard
Vallejo, California

This action does not affect contracts awarded prior to the effective date of

this addition or options exercised under those contracts.

Beverly L. Milkman,
Executive Director.

[FR Doc. 90-15227 Filed 6-28-90; 8:45 am]
BILLING CODE 6820-33-M

Procurement List 1990; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to Procurement List 1990 commodities and military resale commodities to be produced and services to be provided by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: July 30, 1990.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman, (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51-2.6. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities, military resale commodities and services listed below from workshops for the blind or other severely handicapped. It is proposed to add the following commodities, military resale commodities and services to Procurement List 1990, which was published on November 3, 1989 (54 FR 46540):

Commodities

Hood, Operating, Surgical
6532-00-197-8201

Dress, Hospital Duty Uniform

8410-01-277-3651
8410-01-277-3652
8410-01-277-3653
8410-01-277-3654
8410-01-277-3655
8410-01-277-3656
8410-01-277-3657
8410-01-277-3658
8410-01-277-3659
8410-01-277-3660

8410-01-277-3661
8410-01-277-3662
8410-01-277-3663
8410-01-277-3664
8410-01-277-3665
8410-01-277-3666
8410-01-277-3667
8410-01-277-3668
8410-01-277-3669
8410-01-277-3670
8410-01-277-3671
8410-01-277-3672
8410-01-277-3673
8410-01-277-3674
8410-01-277-3675
8410-01-277-3676
8410-01-277-3677
8410-01-277-3678
8410-01-277-3679
8410-01-277-3680
8410-01-277-3681
8410-01-277-3682
8410-01-277-3683

Trousers, Camouflage

8415-01-102-6285
8415-01-102-6286
8415-01-102-6287
8415-01-102-6288
8415-01-102-6289
8415-01-102-6290
8415-01-102-6291
8415-01-102-6292
8415-01-102-6293
8415-01-102-6294
8415-01-102-6295
8415-01-102-6296
8415-01-102-6297
8415-01-102-6298
8415-01-102-6299

Envelope, Photograph

8460-01-113-7576

Military Resale Item No. and Name

530 Candle, Air Freshening, Christmas Scent
760 Apron, Child, Printed Design
890 Tools, Barbecue
993 Pens, Stick, Air Force
994 Pens, Stick, Army

Services

Grounds Maintenance
Waco Distribution Center
1801 Exchange Drive
Waco, Texas

Janitorial/Custodial

Federal Building and U.S. Post Office
522 North Central Avenue
Phoenix, Arizona

Janitorial/Custodial

Veterinary Services Building 401
Hill Air Force Base, Utah

Microfilm/Microfiche Reproduction

Newark Air Force Base, Ohio

Beverly L. Milkman,
Executive Director.

[FR Doc. 90-15228 Filed 6-28-90; 8:45 am]
BILLING CODE 6820-33-M

COMMODITY FUTURES TRADING COMMISSION

Chicago Mercantile Exchange's Proposed Rule 550 Establishing Post Settlement Session Procedures for All Futures and Option Contracts

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed new contract market rule.

SUMMARY: The Chicago Mercantile Exchange ("CME" or "Exchange") has submitted to the Commodity Futures Trading Commission ("Commission") a proposed new rule 550 which would establish an additional trading period of no more than three minutes, or a "post settlement session," for all futures and option contracts at the conclusion of their regular trading sessions. During the post settlement session transactions could take place only at a single settlement price established at the close of regular trading. Individual CME members could trade for their own accounts at the settlement price without any other limitation. Other market participants could trade only to the extent that their orders had been received and time-stamped on the trading floor prior to the close of regular trading hours but were not executed at the close. The Commission has determined that publication of the proposal is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act ("Act").

DATES: Comments must be received by July 30, 1990.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Telephone: (202) 254-6314.

FOR FURTHER INFORMATION CONTACT: David P. Van Wagner, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Telephone: (202) 254-8955.

SUPPLEMENTARY INFORMATION:

I. Description of Proposal

By letter dated December 19, 1989 and received by the Commission on December 20, 1989, the CME submitted for Commission approval a proposed new rule 550 pursuant to Commission Regulation 1.41(b). The proposed new CME Rule would establish an additional three-minute trading period or post settlement session for each futures and

option contract at the conclusion of its regular trading session. During the post settlement session, transactions could take place only at a single settlement price established at the close of regular trading. Individual CME members could trade for their own accounts at the settlement price without any other limitation. CME members also could execute non-discretionary orders on behalf of customers so long as they had been received and time-stamped on the trading floor prior to the close of regular trading hours but were not executed at the close. The CME's proposed post settlement session raises many of the same issues raised by a recent Chicago Board of Trade ("CBT") proposal which would establish modified closing call procedures for all futures contracts traded at the CBT.¹ That CBT proposal was published for public comment on September 20, 1989, 54 FR 38719. The Commission is continuing to discuss with the CBT various of the issues raised by CBT's proposed modified closing call procedures.

In support of its proposal, the CME represented that customer market-on-close orders that arrive at the close but are not executed during the regular trading session could be filled at the settlement price during the post settlement session. CME indicated that this situation could occur, for instance, when a customer order has been entered late in the regular trading session in response to changes in the underlying cash markets or when a floor broker has not filled a customer order during regular trading hours due to some oversight. The CME believes that its proposed post settlement session would address these situations and thus facilitate the filling of customer orders.

The CME also contended that its proposal would permit a floor trader to "even up" his position if he wanted to avoid the risk of carrying an open position overnight. The CME has argued that because a floor member would know that he could adjust his position during the post settlement session, he would be better able to provide liquidity during the close because he would not have to be as concerned with managing his own position risk. The Exchange did not provide any data in support of any of these assertions.

¹ The CBT's proposed modified closing call procedures would differ from CME's post settlement session in a limited number of ways. First, CBT's procedures would allow transactions during its closing call to occur at any price within a specified closing range of prices. Second, CBT would establish closing call procedures for futures contracts only. Finally, CBT's closing call sessions would be two minutes long.

CME has indicated that it would take a number of surveillance measures with regard to trading during a post settlement session. The Exchange would have a CME official monitor each post settlement session and determine, in consultation with the pit committee, when the session for each contract should be ended. The CME also would establish a special time bracket for trading card purposes to designate trades executed during the post settlement session. The Exchange believes that surveillance of the proposed session would not be particularly burdensome in that all transactions during the session would be at the single required settlement price.

II. Request for Comments

The Commission requests comments on any aspect of proposed CME rule 550 that members of the public believe may raise issues under the Act or the Commission's regulations. In particular, the Commission has identified the following matter for which comment may be appropriate:

1. Currently, all market participants know or should know when the market closes and how far in advance of that time they should place orders to have a reasonable chance of execution. Why then would it be necessary to establish a post settlement session where late orders would be given an additional opportunity to be filled?

2. Are there benefits or potential abuses flowing from the unfixed length of the proposed post settlement session?

3. Would the establishment of the proposed post settlement session create any potential for floor traders to take advantage of customer orders? If so, would such potential be greater than during regular trading sessions?

4. Would it be appropriate for the Exchange to adopt any particular safeguards or surveillance procedures, other than those described in this release, to prevent anti/or detect any trade practice abuses identified in response to the foregoing question?

5. During the proposed post settlement session, individual CME members would be the only market participants permitted to initiate trades for their own accounts. Other market participants could take part only to the extent that they had placed orders during regular trading hours which were executable during the close but not executed. Does this distinction between CME members and other market participants raise any anticompetitive concerns under section 15 of the Act?

6. Would the proposed settlement session contravene any provision of the Act or the Commission's regulations?

7. Would a post settlement session divert volume from the regular trading session? If so, how would this diversion affect the hedging and price discovery functions of the regular trading session?

8. Would there be any other costs or benefits that may result from this proposal that should be considered?

9. Are there alternative means available to achieve the purposes of the CME's proposal?

Copies of the CME's original submission are available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Copies also may be obtained through the Office of the Secretariat at the above address or by telephoning (202) 254-6314.

Any person interested in submitting written data, views or arguments on the proposed regulation, or with respect to other materials submitted by the CME in support of its submission, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, by the specified date.

Issued in Washington, DC, on June 25, 1990.

Jean A. Webb,
Secretary of the Commission.

[FR Doc. 90-15102 Filed 6-28-90; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Title, Applicable Form, and Applicable OMB Control Number: Application for Uniformed Services Identification Card-DEERS Enrollment; DD Form 1172; and OMB Control Number 0704-0020.

Type of Request: Extension.
Average Burden Hours/Minutes per Response: 10 minutes.

Frequency of Response: One response per respondent.

Number of Respondents: 45,000.

Annual Burden Hours: 7,500.

Annual Responses: 45,000.

Needs and Uses: DD Form 1172 is the form used by retired members, survivors, and other qualified persons to apply for Uniformed Services Identification Cards and enrollment in the Defense Enrollment Eligibility Reporting System (DEERS) data base. Identification cards are issued to identify the individual's eligibility for military benefits and privileges.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Dr. J. Timothy Sprehe.

Written comments and recommendations on the proposed information collection should be sent to Dr. J. Timothy Sprehe at Office of Management and Budget, Desk Officer, room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Ms. Pearl Rascoe-Harrison.

Written request for copies of the information collection proposal should be sent to Ms. Rascoe-Harrison, WHS/DIOR, 1215 Jefferson Davis Highway, suite 1204, Arlington, Virginia 22202-4302.

Dated: June 25, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90-15114 Filed 6-28-90; 8:45 am]

BILLING CODE 3810-01-M

Office of the Secretary

Manual for Courts-Martial

ACTION: Notice of Proposed Amendments.

SUMMARY: The Department of Defense is considering recommending changes to the Manual for Courts-Martial, United States, 1984, Executive Order No. 12473, as amended by Executive Order Nos. 12484, 12550, 12586 and 12708. The proposed changes are part of the 1990 annual review required by the Manual for Courts-Martial and DoD Directive 5500.17, "Review of the Manual for Courts-Martial," January 23, 1985.

The proposed changes reflected in this notice would amend the following Rules for Courts-Martial: R.C.M. 109, Professional supervision of judges; R.C.M. 305, Pretrial confinement; R.C.M. 405, Pretrial investigations; R.C.M. 701, Discovery; R.C.M. 704, Immunity; R.C.M. 910, Pleas; R.C.M. 918, Findings; R.C.M. 920, Instructions on findings; R.C.M. 1103, Preparation of records of trial. The proposed changes would also amend the

following rules of evidence in part III (Military Rules of Evidence): M.R.E. 311, Evidence obtained from unlawful searches and seizures; M.R.E. 505, Classified information; M.R.E. 609, Impeachment by evidence of conviction of a crime; M.R.E. 1101, Applicability of rules of evidence. The proposed changes would also amend the following Paragraphs, part IV (Punitive Articles): Para. 37(c)—Article 112a (Wrongful use of controlled substances)—definition of use and deliberate ignorance; Para. 37(e)—Article 112a (Wrongful use of controlled substances)—maximum punishment; Para. 43(d)—Article 118 (Murder)—lesser included offenses; Para. 45(d)—Article 120 (Rape)—lesser included offenses; Para. 96a—Article 134 (Wrongful interference with an administrative action)—new paragraph.

The proposed changes have not been coordinated within the Department of Defense under DoD Directive 5500.1, "Preparation and Processing of Legislation, Executive Orders, Proclamations, and Reports and Comments Thereon," May 21, 1964, and do not constitute the official position of the Department of Defense, the Military Departments, or any other government agency.

This notice is provided in accordance with DoD Directive 5500.17, "Review of the Manual for Courts-Martial," January 23, 1985. This notice is intended only to improve the internal management of the federal government. It is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

ADDRESS: Copies of the proposed changes, and the accompanying Discussion and Analysis, may be examined at the Office of the Judge Advocate General, Military Justice Division (JAJM), Bolling Air Force Base, Bldg. 5683, Washington, DC 20332-6128. A copy of the proposed changes and accompanying Discussion and Analysis may be obtained by mail upon request from the foregoing address, ATTN: Major John Petrow.

DATE: Comments on the proposed changes must be received not later than September 12, 1990 for consideration by the Joint-Service Committee on Military Justice.

FOR FURTHER INFORMATION CONTACT: Major John Petrow (202) 767-1539.

Dated: June 22, 1990.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90-15113 Filed 6-28-90; 8:45 am]

BILLING CODE 3810-01-M

Office of the Secretary of Defense**Meetings; Education Benefits Board of Actuaries**

AGENCY: Department of Defense, Education Benefits Board of Actuaries.
ACTION: Notice of meeting.

SUMMARY: A meeting of the Board has been scheduled to execute the provisions of chapter 101, title 10, United States Code (10 U.S.C. 20006(e) et. seq.). The Board shall review DoD actuarial methods and assumptions to be used in the valuation of the GI Bill. Persons desiring to (1) attend the DoD Education Benefits Board of Actuaries meeting or (2) make an oral presentation or submit a written statement for consideration at the meeting must notify Benjamin Gottlieb at 696-5869 by July 16, 1990. Notice of this meeting is required under the Federal Advisory Committee Act.

DATES: July 24, 1990, 1 p.m. to 5 p.m.

ADDRESSES: Room 1E801 #7, the Pentagon.

FOR FURTHER INFORMATION CONTACT: Benjamin Gottlieb, Chief Actuary, DoD Office of the Actuary, 4th floor, 1600 Wilson Boulevard, Arlington, VA 22209-2593, (202) 696-5869.

Dated: June 25, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90-15111 Filed 6-28-90; 8:45 am]

BILLING CODE 3810-01-M

Meetings; Retirement Benefits Board of Actuaries

AGENCY: Department of Defense Retirement Benefits Board of Actuaries.
ACTION: Notice of meeting.

SUMMARY: A meeting of the Defense Retirement Benefits Board of Actuaries has been scheduled. The Board shall review DoD actuarial methods and assumptions to be used in the valuation of retirement benefits. Persons desiring to (1) attend the DoD Retirement Benefits Board of Actuaries meeting or (2) make an oral presentation or submit a written statement for consideration at the meeting must notify Benjamin Gottlieb at 696-5869 by July 17, 1990. Notice of this meeting is required under the Federal Advisory Committee Act.

DATES: July 25, 1990, 9 a.m. to 1 p.m.

ADDRESSES: Room 1E801 #7, the Pentagon.

FOR FURTHER INFORMATION CONTACT: Benjamin Gottlieb, Chief Actuary, DoD Office of the Actuary, 4th floor, 1600

Wilson Boulevard, Arlington, VA 22209-2593, (202) 696-5869.

Dated: June 25, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90-15112 Filed 6-28-90; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force**USAF Scientific Advisory Board; Meeting**

June 26, 1990.

The USAF Scientific Advisory Board Ad Hoc Committee on Post Deployment Software Support will meet on July 16-18, 1990 from 8 a.m. to 5 p.m. at the Software Engineering Institute, Pittsburgh, PA.

The purpose of this meeting will be to review Air Force Post Deployment Software Support (PDSS) capabilities and to make recommendations in these areas: Actions that AFLC might take to improve the PDSS process, technology that AFLC might evaluate for possible adoption, and strategy that AFLC might follow to develop and implement a mechanism for estimating cost and schedule. This meeting will involve discussions of classified defense matters listed in section 552b(c) of title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697-8404.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 90-15259 Filed 6-28-90; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF EDUCATION**Indian Nations At Risk Task Force; Meeting**

AGENCY: Indian Nations At Risk Task Force.

ACTION: Notice of meeting and public hearing.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting and public hearing of the Indian Nations At Risk Task Force. This notice also describes the functions of the Task Force. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is also intended to notify the general public of their opportunity to attend the meeting and/or to testify at the public hearing.

DATES AND TIMES:

July 16, 1990 (Public Hearing), 9 a.m. to 5:30 p.m.

July 17, 1990 (Business Meeting), 9 a.m. to 5:30 p.m.

July 18, 1990 (Business Meeting), 8:30 a.m. to noon.

ADDRESSES: July 16 only: Centennial Hall Convention Center, Ballroom # 2, 101 Egan Drive, Juneau, Alaska 99801 and July 17 and 18: Department of Education Boardroom, Goldbelt Place, 801 West 10th Street, Juneau, Alaska 99801.

FOR FURTHER INFORMATION CONTACT:

Alan Ginsburg, Executive Director, Indian Nations At Risk Task Force, room 3127, U.S. Department of Education, 400 Maryland Avenue SW., Washington, DC 20202-4244. Telephone: (202) 401-3132.

SUPPLEMENTARY INFORMATION: The Indian Nations At Risk Task Force was established by the Secretary of Education on March 8, 1990. Its purpose is to advise and make recommendations to the Secretary of Education on the condition of education of American Indians/Alaska Natives in the United States. The Task Force will hold a number of public hearings around the country during its existence, and public notice will be given of all future meetings and hearings. The hearings will provide interested individuals and organizations with the opportunity to present oral and/or written testimony to the Task Force. Such testimony should focus on (1) Educational problems and barriers of American Indian/Alaska Native youth and adults to attaining higher levels of performance and attainment in education, and/or (2) efforts that can be taken to foster higher levels of quality and academic excellence in the nation's schools, colleges and universities that serve significant numbers of American Indians/Alaska Natives. The meetings and hearings of the Task Force are open to the public. The agenda includes:

Monday July 16, 1990, 9 a.m.: Public Hearing, continuing all day. If time remains after all individuals wishing to testify have had an opportunity to do so, the agenda may be altered at the discretion of the co-chairpersons.

Tuesday July 17, 1990, 9 a.m.: Task Force Business Meeting begins. Subjects include: a discussion of the Task Force's activities, papers and analyses to be commissioned, outline and content of the final report, future meeting and hearing dates and sites, and other topics to be determined at the discretion of the Task Force Chairpersons.

Wednesday July 18, 1990, 8:30 a.m.: Task Force Business Meeting continues, concluding at noon.

Anyone wishing to present oral testimony should call the Task Force staff at (202) 401-0039, no later than July 9, 1990, and provide the following information:

- (1) Name, address and telephone number;
- (2) Affiliation (if any); and
- (3) A brief statement of the issues that will be addressed.

Testimony for this hearing should address specifically: The educational problems and barriers of American Indian/Alaska Native youth and adults, or (2) examples of innovative programs or practices that have been successful in meeting the educational needs of American Indians/Alaska Natives. Testimony may concern early childhood education, elementary/secondary schooling, postsecondary education and parent and community involvement.

All speakers are asked to bring with them 25 copies of their testimony. Individuals who do not register in advance will be permitted to register and speak at the hearing in order of registration, if time permits. If necessary, the hearings will be extended, at the discretion of the Task Force Chairpersons. Speakers should plan to limit their total remarks to ten minutes. While it is anticipated that all persons desiring to do so will have an opportunity to speak, time limits may not allow this to occur. The Task Force will make the final determination on selection and scheduling of speakers. All written statements presented at the hearing or sent to the Task Force prior to the hearing will be incorporated into the public record.

Records are kept of the proceedings of the Task Force and are available for public inspection at the staff offices of the Task Force, from 9 a.m. to 4:30 p.m., on weekdays, excluding Federal holidays, room 4010, FOB-6, 400 Maryland Avenue SW., Washington, DC 20202

Dated: June 25, 1990

George Pieler,

Acting Deputy Under Secretary for Planning, Budget and Evaluation U.S. Department of Education.

[FR Doc. 90-15106 Filed 6-28-90; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Financial Assistance Award Intent to Award a Grant to Compad, Inc.

AGENCY: Department of Energy.

ACTION: Notice of unsolicited financial assistance award.

SUMMARY: The Department of Energy (DOE) announces that pursuant to 10 CFR 600.6(a)(2), it is making a financial assistance award based on an unsolicited application satisfying the criteria of 10 CFR 600.14(e)(1) under Grant Number DE-FG01-90CE15353 to Compad, Inc. for a computerized system for aligning the shafts of turbines and generators. The total estimated cost of the Grant award will be paid by DOE in an amount not-to-exceed \$61,835.

SCOPE: The two year effort provides funds to design, build and test a prototype of an aligner of steam turbines and generator shafts in power plants. An independent firm will supply components and manage the installation and testing in the field with the assistance of two test engineers who will perform the testing.

The purpose of the project is to develop a computerized turbine aligner for steam turbines that will save energy. It is estimated that up to 160,000 barrels of crude oil could be saved each year.

ELIGIBILITY: Based on the receipt of an unsolicited proposal, eligibility for this award is being limited to Compad, Inc., a small corporation specializing in turbine research. The corporation and its president will make facilities and resources available that are not available elsewhere. The president of the firm owns the patent on this technology. It has been determined that this project has high technical merit, representing an innovative and novel idea which has a strong possibility of allowing for future reductions in the Nation's energy consumption.

The term of the grant shall be two years from the effective date of the award.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Office of Procurement Operations, ATTN: Rose Mason, PR-542, 1000 Independence Ave., SW., Washington, DC 20585.

Thomas S. Keefe,

Director, Contract Operations Division "B" Office of Procurement Operations.

[FR Doc. 90-15206 Filed 6-28-90; 8:45 am]

BILLING CODE 6450-01-M

Financial Assistance Award Intent to Make a Non-Competitive Financial Assistance Award to American Council for Energy Efficient Economy

AGENCY: Department of Energy.

ACTION: Notice of intent to make a non-

competitive financial assistance award.

SUMMARY: The Department of Energy announces the proposed award of a non-competitive Grant Number DE-FG01-90CE27506 to the American Council For An Energy Efficient Economy (ACCEC) pursuant to 10 CFR 600.7(b)(2)(i)(D). The ACCEC has previously sponsored biennial summer study conferences with Departmental support for energy efficiency in buildings. The proposed study conference will bring together outstanding researchers, program managers, policy makers, and practitioners in the field of energy conservation in buildings.

SCOPE: The objective of the grant is to, (a) facilitate the exchange of research and implementation results and encourage the advancement of knowledge, (b) publish and distribute the research papers presented at the conference on topics of special interest, and (c) edit and publish follow-up reports on conference topics of special interest. This will allow the Office of Buildings and Community Systems to present, hear and discuss the latest research information on energy efficient buildings.

ELIGIBILITY: ACEE is a widely recognized and highly prestigious professional organization established to gather, evaluate and disseminate information that stimulates the adoption of more energy efficient and economical technologies and practices as well as more effective policies pertaining to energy conservation. There is no other organization that can attract nationally and internationally known experts to participate in a week long summer study conference which is designed to facilitate the exchange of research results and also to encourage interactions among states, individuals and foreign Governments. ACEE has been very successful in conducting study conferences which are critical for the development of new technologies and concepts in energy efficient economy. The Office of Buildings and Community Systems recommends that consideration for this grant be limited to the ACEE.

The term of this grant shall be from approximately June 1990 through December 1990. The estimated cost of this grant is \$330,395.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Office of Procurement Operations, ATTN: Calvin

Lee, PR-542, 1000 Independence Avenue, SW., Washington, DC 20585.

Thomas S. Keefe,

Director, Contract Operations Division "B",
Office of Procurement Operations.

[FR Doc. 90-15207 Filed 6-28-90; 8:45 am]

BILLING CODE 6450-01-M

Financial Assistance Award, Intent To Award a Grant to Energy Education Services, Inc.

AGENCY: U.S. Department of Energy.

ACTION: Notice of unsolicited financial assistance award.

SUMMARY: The Department of Energy (DOE) announces that pursuant to 10 CFR 600.6(a)(2), it is making a financial assistance award based on an unsolicited application satisfying the criteria of 10 CFR 600.14(e)(1) under Grant Number DE-FG01-90CE16031 to Energy Education Services, Inc., National Energy Education Development (NEED) Project. The NEED Project will conduct four National Leadership Training Conferences having a total estimated cost of \$207,425 with approximately \$40,000 being provided by DOE.

SCOPE: The grant will provide funding for the NEED Project to conduct conferences where up to 500 student and adult leaders representing 100 regions of the United States will be provided the knowledge, training, and motivation to conduct energy education and related activities in their state or community.

The purpose of the project is to contribute significantly to the energy education of the public. It utilizes an existing NEED network which provides training to student and teacher leaders who are able to conduct education campaigns, science experiment fairs and school-wide energy campaigns in their own schools and communities.

ELIGIBILITY: Based on the receipt of an unsolicited proposal, eligibility for this award is being limited to the National Energy Education Development (NEED) Project of Energy Education Services, Inc. Past experience has demonstrated the capability of the grantee in achieving its objectives. The NEED Project's exclusive capability is demonstrated by its highly specialized network of state and local NEED coordinators in approximately 25 states and its support, including participation, by members of Congress who serve on the NEED Advisory Board.

It has been determined that this project has high technical merit, representing and innovative and novel idea which has a strong possibility of

allowing for future reductions in the Nation's energy consumption.

The term of the grant shall be eighteen months from the effective date of the award.

FOR FURTHER INFORMATION CONTACT:

U.S. Department of Energy, Office of Procurement Operations, ATTN: Rose Mason, PR-542, 1000 Independence Ave., SW., Washington, DC 20585.

Thomas S. Keefe,

Director, Contract Operations Division "B",
Office of Procurement Operations.

[FR Doc. 90-15265 Filed 6-28-90; 8:45 am]

BILLING CODE 6450-01-M

Financial Assistance Award, Intent to Award Grant to Ohio State University

AGENCY: U.S. Department of Energy.

ACTION: Notice of Non-Competitive Financial Assistance Award.

SUMMARY: The Department of Energy announces that pursuant to 10 CFR 600.7(b)(2)(i)(A), it plans to make a non-competitive financial assistance award to Ohio State University (OSU) to fund the completion of the work to develop friction reducing additives for district heating and cooling systems over a 2-year budget and project period under Grant DE-FG01-90CE26605 to OSU in the amount of \$104,000.

SCOPE: The objective of this work is to advance the state-of-the-art of friction reducing additives for district heating and cooling systems. Under this grant OSU will (1) identify and test corrosive additives which are complementary with the friction reducing additives; (2) field test the additives in a small system; (3) develop methods to improve the friction reducing additives to reduce application cost; and (4) develop methods and analyze techniques for removing additives from the system.

ELIGIBILITY: The proposed grant is being restricted to OSU, because OSU has an engineering laboratory designed to test for the reduction of pumping energy losses in heating and cooling systems.

Dr. Jacques L. Zakin, the principal investigator, holds a B.A., and an M.S. in chemical engineering and a doctorate in engineering science, specializing in research and development, and has extensive experience in the field of cationic and non-ionic surfactant drag reducing additives. The OSU has an engineering laboratory designed to test for the reduction of pumping energy losses in heating and cooling systems. OSU has tested an innovative additive system which showed great promise covering four important areas involving friction reducing fluids for district heating and cooling systems. The

activity to be funded is necessary to the satisfactory completion of an activity recently funded by DOE. Any competition for this activity will have a significant adverse effect on completion of the activity by OSU.

On the basis of the research and analysis results obtained from this activity OSU proposes to commercialize use of the friction reducing additives in district cooling and district heating systems in the United States.

FOR FURTHER INFORMATION CONTACT:

U.S. Department of Energy, Office of Procurement Operations, ATTN: Calvin Lee, PR-542, 1000 Independence Avenue, SW., Washington DC 20585.

Thomas S. Keefe,

Director, Contract Operations Division "B",
Office of Procurement Operations.

[FR Doc. 90-15208 Filed 6-28-90; 8:45 am]

BILLING CODE 6450-01-M

Assistant Secretary for International Affairs and Energy Emergencies; Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation between the Government of the United States of America and the Government of the Republic of Indonesia concerning the Peaceful Uses of Nuclear Energy.

The subsequent arrangement to be carried out under the above-mentioned agreements involves approval of the following retransfer: RTD/IE-(EU)7, for the retransfer of 32.1 kilograms of uranium, enriched to approximately 19.95 percent in the isotope uranium-235, from the Federal Republic of Germany to Indonesia for use in fabrication of fuel elements for the research reactor operated by the National Atomic Energy Agency.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Issued at Washington, DC on June 12, 1990.
 Richard H. Williamson,
*Associate Deputy Assistant Secretary for
 International Affairs.*
 [FR Doc. 90-1520 Filed 6-28-90; 8:45 am]
 BILLING CODE 6450-01-M

Assistant Secretary for International Affairs and Energy Emergencies; Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation between the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above-mentioned agreement involves approval of the following sale: Contract No. S-EU-981, for the supply to the Commissariat a l'energie Atomique, Saclay, France of 3.02 grams of plutonium, for use as standard reference material.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Issued in Washington, DC on June 12, 1990.
 Richard Williamson,
*Associate Deputy Assistant Secretary for
 International Affairs.*
 [FR Doc. 90-15210 Filed 6-28-90; 8:45 am]
 BILLING CODE 6450-01-M

Office of Environmental Restoration and Waste Management

Solicitation of Comments from the Public on the Environmental Restoration and Waste Management Five-Year Plan, Fiscal Years 1992-1996

AGENCY: Office of Environmental Restoration and Waste Management, Department of Energy.

ACTION: Notice of availability of the Environmental Restoration and Waste Management Five-Year Plan for public review and comment.

SUMMARY: The Department of Energy (DOE) continues to view as one of its most challenging problems the minimization, management, and cleanup of waste materials generated from

Departmental operations. With the publication of this Environmental Restoration and Waste Management Five-Year Plan for Fiscal Years 1992-1996, DOE reaffirms its policy that full compliance with the letter and spirit of applicable environmental laws, regulations, and requirements is an integral part of operating DOE facilities. The fundamental goal is to ensure that risks to human health and safety and to the environment posed by the Department's past, present, and future operations are either eliminated or reduced to prescribe, safe levels by the year 2019. The Five-Year Plan for Fiscal Years 1992-1996 has now been completed. The Plan encompasses five discrete areas: Corrective Activities, Environmental Restoration, Waste Management Operations, Technology Development, and Transportation. The Department is making available for interested groups and individuals the Environmental Restoration and Waste Management Five-Year Plan for review and comment. The comment period will be approximately 90 days beginning on June 29, 1990 and will extend through September 30, 1990. All comments received by that date will be considered in the preparation of the updated plan. **DATES:** Comments will be accepted through September 30, 1990.

ADDRESSES: Persons requiring a single copy of the Plan should submit their requests to Mr. Paul D. Grimm, Office of Environmental Restoration and Waste Management, EM-2, Attn: Five-Year Plan, Department of Energy, Washington, DC 20585 or call (301) 353-3555. (Multiple copies may be purchased through the Government Printing Office.) Written comments should be addressed to Mr. Grimm at the same address.

FOR FURTHER INFORMATION CONTACT: Mr. Paul D. Grimm on (202) 586-7709.

Paul D. Grimm,
*Acting Director, Office of Environmental
 Restoration and Waste Management.*
 [FR Doc. 90-15205 Filed 6-28-90; 8:45 am]
 BILLING CODE 6450-01-M

Office of Fossil Energy

[FE Docket No. 90-20-NG]

Boston Gas Co.; Order Granting Authorization to Import Natural Gas

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of an order granting blanket authorization to import natural gas from Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE)

gives notice that it has issued an order granting Boston Gas Company (Boston Gas) authorization to import natural gas from Canada. The order issued in FE Docket No. 90-20-NG authorizes Boston Gas to import up to 36.5 Bcf of Canadian natural gas per year, not to exceed 100,000 Mcf daily, over a two-year period beginning on the date of first delivery.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket room, 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, June 26, 1990.
 Clifford P. Tomaszewski,
*Acting Deputy Assistant Secretary for Fuels
 Programs, Office of Fossil Energy.*
 [FR Doc. 90-15267 Filed 6-28-90; 8:45 am]
 BILLING CODE 6450-01-M

[FE Docket No. 90-26-NG]

Cherhill Resources Inc.; Order Granting Authorization to Import Natural Gas

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of an order granting blanket authorization to import natural gas from Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice that it has issued an order granting Cherhill Resources Inc. (Cherhill) authorization to import natural gas from Canada. The order issued in FE Docket No. 90-26-NG authorizes Cherhill to import up to 100 Bcf of Canadian natural gas over a two-year period beginning on the date of first delivery.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket room, 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, June 26, 1990.
 Clifford P. Tomaszewski,
*Acting Deputy Assistant Secretary for Fuels
 Programs, Office of Fossil Energy.*
 [FR Doc. 90-15268 Filed 6-28-90; 8:45 am]
 BILLING CODE 6450-01-M

[FE Docket No. 90-24-NG]

Kimball Energy Corp.; Order Granting Blanket Authorization to Export Natural Gas to Canada**AGENCY:** Office of Fossil Energy, Department of Energy.**ACTION:** Notice of an order granting blanket authorization to export natural gas to Canada.**SUMMARY:** The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Kimball Energy Corporation blanket authorization in FE Docket No. 90-24-NG to export up to 75 Bcf of domestic gas to Canada over a two-year period beginning on date of first export delivery.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket room, 3F-056, Forrestal Building, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, June 26, 1990.
 Clifford P. Tomaszewski,
Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.
 [FR Doc. 90-15266 Filed 6-28-90; 8:45 am]
 BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. QF84-503-001]

Pacific-Ultrapower Chinese Station, A Joint Venture; Application for Commission Recertification of Qualifying Status of a Small Power Production Facility

June 22, 1990.

On June 15, 1990, Pacific-Ultrapower Chinese Station, a Joint Venture, of 6055 East Washington Boulevard, City of Commerce, California 90040, submitted for filing an application for recertification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility is located near Chinese Camp in Tuolumne County, California. The facility consists of fluidized-bed boilers producing steam for steam turbine generators. The net electric power production of the facility is 22 MW. The primary energy source is

biomass consisting of lumber mill waste and forest and orchard trimmings.

The certification of the original application was issued to Pacific-Ultrapower Chinese Station on December 18, 1984 (29 FERC ¶ 62,316). The instant recertification is requested due to a change in ownership. The facility will be owned by a partnership consisting of Pacific Energy Resources, Incorporated; Ultrapower Energy Resources, Incorporated; and CII Woodpower I, Inc. (CII). CII is a wholly-owned subsidiary of Baltimore Gas and Electric Company, a gas and electric utility company.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-15099 Filed 6-28-90; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 8800-000, Idaho]

Western Hydro Electric Inc.; Availability of Environmental Assessment

June 25, 1990.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47697), the Office of Hydropower Licensing has reviewed the application for major license for the proposed Goose Creek Hydroelectric Project located on Goose and Brundage Creeks, in Adams County, near McCall, Idaho, and has prepared an Environmental Assessment (EA) for the proposed project. In the EA, the Commission's staff has analyzed the potential environmental impacts of the proposed project and has concluded that approval of the proposed project, with appropriate mitigative measures, would not constitute a major federal action

significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, room 3008, of the Commission's offices at 941 North Capitol Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 90-15100 Filed 6-28-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. P-8909-011]

Notice of Application Filed with the Commission

June 25, 1990.

Take notice that the following hydroelectric application has been filed with the Federal Energy Regulatory Commission and is available for public inspection.

- a. *Type of Filing:* Transfer of License.
- b. *Project No.:* 8909-011.
- c. *Date Filed:* June 21, 1990.
- d. *Applicant:* Bonneville Pacific Corporation and Big Wood Canal Company (Transferors) and Big Wood Canal Company and BP Hydro Associates (Transferees).
- e. *Name of Project:* Dietrich Drop.
- f. *Location:* On the Milner Gooding Canal in Lincoln County, Idaho.
- g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. § 791 (a)-825(r).
- h. *Applicant Contact:* Bonneville Pacific Corporation and BP Hydro Associates—McNeill Watkins II, Bishop, Cook, Purcell & Reynolds, 1400 L Street, NW., Washington, DC 20005, (202) 371-5785.
- i. *Commission Contact:* Mr. William Roy-Harrison, (202) 357-0845.
- j. *Comment Date:* July 6, 1990.
- k. *Description of Proposed Action:* On May 22, 1987, a major license was issued to Idaho Renewable Resources, Bonneville Pacific Corporation, and Big Wood Canal Company for the construction, operation, and maintenance of the Dietrich Drop Project, and on May 23, 1989, a transfer of the license was approved to the current Transferors. The proposed transfer will not result in any changes to the development. The Transferees accept all the terms and conditions of the license and agree to be bound thereby to the same extent as though they were the original licensee.

1. This notice also consists of the following standard paragraphs: B and C.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 285.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "RECOMMENDATIONS FOR TERMS AND CONDITIONS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATIONS," "PROTEST" or "MOTION TO INTERVENE," as applicable, and the project number of the particular application to which the filing is in response. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to: the Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, room 204-RB, at the above address. A copy of any notice of intent, competing application, or motion to intervene must also be served upon each representative of the applicant specified in the particular application.

Lois D. Cashell,

Secretary.

[FR Doc. 90-15096 Filed 6-28-90; 8:45am]

BILLING CODE 6717-01-M

[Docket Nos. CP90-1586-000, et al.]

**Sea Robin Pipeline Company, et al.;
Natural gas certificate filings**

June 22, 1990.

Take notice that the following filings have been made with the Commission:

1. Sea Robin Pipeline Company

[Docket No. CP90-1586-000]

Take notice that on June 20, 1990, Sea Robin Pipeline Company (Sea Robin), P.O. Box 1478, Houston, Texas 77251-1478 filed in Docket No. CP90-1586-000 an application pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR

157.205) for authorization to transport natural gas on behalf of Adobe Gas Marketing Company (Adobe), under Sea Robin's blanket certificate issued in Docket No. CP88-824-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Sea Robin proposes to transport, on an interruptible basis, up to 25,750 MMBtu of natural gas per day for Adobe. Sea Robin states that construction of facilities would not be required to provide the proposed service.

Sea Robin further states that the maximum day, average day, and annual transportation volumes would be approximately 25,750 MMBtu, 25,750 MMBtu and 9,398,750 MMBtu of natural gas respectively.

Sea Robin advises that service under Section 284.223(a) commenced May 1, 1990, as reported in Docket No. ST90-3153.

Comment date: August 8, 1990, in accordance with Standard Paragraph G at the end of this notice.

2. KN Energy, Inc.

[Docket No. CP90-1577-000]

Take notice that on June 20, 1990, K N Energy, Inc. (K N), P.O. Box 15265, Lakewood, Colorado, 80215, filed in Docket No. CP90-1577-000, a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act, to transport natural gas under its blanket certificate issued in Docket No. CP89-1043-000 on behalf of Consolidated Fuel Corporation (Consolidated), all as more fully set forth in the request on file with the Commission and open to public inspection.

K N proposes to transport a maximum daily quantity of 10,000 Mcf, for KP&L with estimated annual and average daily quantities of 3,650 Mcf and 10,000 Mcf, respectively.

K N states that transportation service for Consolidated commenced May 16, 1990, as reported in Docket No. ST90-3284-000. K N further states that the gas would be transported from existing receipt points along K N's pipeline system to an existing interconnecting point with other pipeline companies in Kansas and Colorado. K N also indicates that no new facilities will be constructed in order to provide the proposed service.

Comment date: August 8, 1990, in accordance with Standard Paragraph G at the end of this notice.

3. Texas Gas Transmission Corporation
[Docket No. CP90-1579-000]

Take notice that on June 20, 1990, Texas Gas Transmission, Corporation, (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP90-1579-000, a request pursuant to §§ 157.205 and 284.23 of the Commission's Regulations under the Natural Gas Act, to transport natural gas under its blanket certificate issued in Docket No. CP88-686-000 for PSI, Inc. (PSI), all as more fully set forth in the request on file with the Commission and open to public inspection.

Texas Gas proposes to transport a maximum daily quantity of 150,000 MMBtu for PSI with estimated annual and average daily quantities of 54,750,000 MMBtu and 100,000 MMBtu, respectively.

Texas Gas indicates that the service is being rendered through the use of Texas Gas's existing facilities and that such service commenced May 9, 1990, as reported in Docket No. ST90-3175.

Comment date: August 8, 1990, in accordance with Standard Paragraph G at the end of this notice.

**Green Canyon Pipe Line Company
Panhandle Eastern Pipe Line Company**

[Docket Nos. CP90-1598-000, CP90-1599-000]

Take notice that Green Canyon Pipe Line Company, P.O. Box 1396, Houston, Texas 77251, and Panhandle Eastern Pipe Line Company, P.O. Box 1642, Houston, Texas 77251-1642, (Applicants), filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under the blanket certificates issued in Docket No. CP89-515-000 and Docket No. CP88-585-000, respectively, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.¹

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicants and is summarized in the attached appendix.

¹ These prior notice requests are not consolidated.

Applicants state that each of the proposed services would be provided under an executed transportation agreement, and that Applicants would

charge the rates and abide by the terms and conditions of the referenced transportation rate schedules.

Comment date: August 6, 1990, in accordance with Standard Paragraph G at the end of this notice.

Docket No. (date filed)	Shipper name (type)	Peak day average day annual Mcf	Receipt * points	Delivery points	Contract date rate schedule service type	Related docket, start up date
CP90-1598-000 (6-21-90)	Conoco Inc. (Producer)	40,000 40,000 14,600,000	OLA	OLA	11-22-89	ST90-3415-000.
CP90-1599-000 (6-21-90)	Vesta Energy Company (Marketer)	50,000 50,000 * 18,250,000	CO	KS	FT-GC	4-15-90.
					Firm	
					3-15-90	ST90-3171-000.
					PT	5-1-90.
					Interruptible	

* Offshore Louisiana is shown as OLA.

* Panhandle's quantities are in dekatherms.

5. Panhandle Eastern Pipe Line Company, Panhandle Eastern Pipe Line Company, Williston Basin Interstate Pipeline Company

[Docket Nos. CP90-1563-000, CP90-1564-000, CP90-1562-000]

Take notice that the above referenced companies (Applicants) filed in the above referenced dockets, prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under their blanket certificates issued pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice

requests which are on file with the Commission and open to public inspection and in the attached appendix.

Information applicable to each transaction including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day, and annual volume, and the docket numbers and initiation dates of the 120-day transactions under § 284.223 of the Commission's Regulations has been provided by the Applicants and is included in the attached appendix.

The Applicants also states that each would provide the service for each shipper under an executed

transportation agreement, and that the Applicants would charge rates and abide by the terms and conditions of the referenced transportation rate schedules.

Comment date: August 6, 1990, in accordance with Standard Paragraph G at the end of this notice.

Applicant: Panhandle Eastern Pipe Line Company, P.O. Box 1642, Houston, Texas 77251.

Filing Date: June 18, 1990.

Blanket Certificate Issued in Docket No.: CP86-585-000.

Information Provided in Prior Notice Request

Docket No.	Transportation rate schedule (type of service)	Shipper	Volumes (DTH)—Peak day, Average day, Annual	Docket No. associated with 120-day transaction	Points of receipt	Points of delivery	Initiation date of 120-day transaction
CP90-1563-000	PT (interruptible)	BP Oil Company	20,000 4,000 1,460,000	ST90-3141-000	Oklahoma, Kansas, Texas, Colorado, Illinois, Michigan, Ohio.	Ohio	5-1-90
CP90-1564-000	PT (interruptible)	Tri-Power Fuels, Inc.	20,000 10,000 3,650,000	ST90-3172-000	Oklahoma, Colorado, Texas, Kansas.	Kansas	5-1-90

Applicant: Williston Basin Interstate Pipeline Company, 304 East Rosser Avenue, Bismarck, North Dakota 58501.

Filing Date: June 18, 1990.

Blanket Certificate Issued in Docket No.: CP89-1118-000.

Information Provided in Prior Notice Request

Docket No.	Transportation rate schedule (type of service)	Shipper	Volumes (MMBTU)—Peak day, Average day, Annual	Docket No. associated with 120-day transaction	Points of receipt	Points of delivery	Initiation date of 120-day transaction
CP90-1562-000	IT-1 (interruptible)	Exxon Corporation	19,000 500 182,500	ST90-3260-000	Wyoming, Montana, North Dakota.	Wyoming, Montana, North Dakota.	5-2-90

* These prior notice requests are not consolidated.

6. K N Energy, Inc.

[Docket No. CP90-1578-000]

Take notice that on June 20, 1990, K N Energy, Inc. (K N), 12055 West 2nd Place P.O. Box 150265, Lakewood, Colorado 80215-0265, filed in Docket No. CP90-1578-000 a request pursuant to § 157.205 of the Commission's Regulations (18 CFR 157.205) to construct and operate facilities sales taps for the delivery of natural gas to 7 end-users located along K N's system in Kansas and Nebraska under K N's blanket certificate issued in Docket No. CP83-140-000, *et al.* pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

K N states that the proposed sales taps are not prohibited by any of its existing tariffs and that the additional taps will have no significant impact on its peak day and annual deliveries.

K N proposes to construct and operate sales taps for the customers indicated below:

Customer	Volumes (Mcf)		End use	Cost (dollars)
	Peak day	Annual		
Jenni Harrington.	2	120	Domestic.	850
Mark Greene.	24	800	Irrigation.	850
Everett Vogel.	2	120	Domestic.	850
Ruth Boxberger.	24	800	Irrigation.	850
Ruth Boxberger.	24	800	Irrigation.	850
Kenneth Iwan.	30	950	Irrigation.	850
Charles Socolofsky.	2	120	Domestic.	850

Comment date: August 6, 1990, in accordance with Standard Paragraph G at the end of this notice.

7. Sea Robin Pipeline Company

[Docket No. CP90-1587-000]

Take notice that on June 20, 1990, Sea Robin Pipeline Company (Sea Robin), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No., CP90-1587-00 an application pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Equitable Resources Marketing Company (Equitable), under Sea Robin's blanket certificate issued in Docket No. CP88-824-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file

with the Commission and open to public inspection.

Sea Robin proposes to transport, on an interruptible basis, up to 211,150 MMBtu of natural gas per day for Equitable. Sea Robin states that construction of facilities would not be required to provide the proposed service.

Sea Robin further states that the maximum day, average day, and annual transportation volumes would be approximately 211,150 MMBtu, 211,150 MMBtu and 77,089,750 MMBtu of natural gas respectively.

Sea Robin advises that service under § 284.223(a) commenced May 3, 1990, as reported in Docket No. ST90-3311.

Comment date: August 6, 1990, in accordance with Standard Paragraph G at the end of this notice.

8. Sea Robin Pipeline Company

[Docket No. CP90-1588-000]

Take notice that on June 20, 1990, Sea Robin Pipeline Company (Sea Robin), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP90-1588-000 an application pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Hadson Gas System (Hadson), under Sea Robin's blanket certificate issued in Docket No. CP88-824-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open for public inspection.

Sea Robin proposes to transport, on a firm basis up to 5,150 MMBtu of natural gas per day for Hadson. Sea Robin states that construction of facilities would not be required to provide the proposed service.

Sea Robin further states that the maximum day, average day, and annual transportation volumes would be approximately 5,150 MMBtu, and 1,879,750 MMBtu of natural gas respectively.

Sea Robin advises that service under § 284.223(a) commenced April 1, 1990, as reported in Docket No. ST90-2943.

Comment date: August 6, 1990, in accordance with standard Paragraph G at the end of this notice.

C. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is

filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 90-15094 Filed 6-28-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM90-10-22-002]

CNG Transmission Corp.; Proposed Changes in FERC Gas Tariff

June 22, 1990.

Take notice that CNG Transmission Corporation ("CNG"), on June 19, 1990, pursuant to section 4 of the Natural Gas Act, the Stipulation and Agreement approved by the Commission on October 6, 1989, in Docket Nos. RP88-217, *et al.* and Section 12.9 of the General Terms and conditions of CNG's FERC Gas Tariff, filed the following revised tariff sheet, to Original Volume No. 1 of CNG's FERC Gas Tariff:

Substitute Fourth Revised Sheet No. 160E

This supplemental filing reflects a change in pagination to Fourth Revised Sheet No. 160E filed on June 11, 1990 in this docket. The tariff sheet is proposed to become effective on June 1, 1990.

CNG states that copies of the filing were served upon affected customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1989)). All such protests should be filed on or before June 28, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-15097 Filed 6-28-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP88-44-000, RP85-58-017, RP88-202-000, Phase I]

El Paso Natural Gas Co.; Further Posthearing Conference

Issued June 25, 1990.

A posthearing conference was held in these proceedings before the Chief Administrative Law Judge on June 22, 1990. At that conference the Chief Judge had a roll call of parties. As will be demonstrated by the official record, each and every party in this proceeding was present and answered the roll call. At the conference, all parties agreed that the public interest will best be served if further attempts at settlement could be undertaken before a final procedure is set. The parties also discussed various avenues that could be followed in the future proceedings in order that all parties might be in a position to present argument on the best method to follow if settlement is not possible. Under the circumstances, the conference was adjourned to be reconvened on July 6, 1990, at 10 a.m., before Chief Judge Curtis L. Wagner, Jr., in a hearing room of the Federal Energy Regulatory Commission at 810 First Street, NE., Washington, DC. Counsel for El Paso Natural Gas Company, Indicated Shippers, the Commission Staff, Southern California Gas Company, Pacific Gas and Electric Company, Conoco, Inc., TOC-Rocky Mountains, Inc., and the California Public Utilities Commission have requested the Chief Judge to advise all parties that one of the matters to be considered at the conference is the issue of whether the parties will waive any and all objections to the issuance of an Initial Decision in this case which was prepared by Presiding Judge Isaac D. Benkin. That request is hereby granted and all parties are hereby notified that that issue will be considered and ruled upon at the conference on July 6.

All parties are hereby reminded that pursuant to rule 601(b)(3), 18 CFR 385.601(b) (1989), if any party fails to attend the conference on July 6, such will constitute a waiver of any order or ruling, or any agreement reached at the conference. All parties are also reminded that rule 601(b)(2), 18 CFR 385.601(b)(2) (1989) requires that any person appearing at the conference in a representative capacity must be authorized to act on behalf of that person's principal with respect to

matters to be addressed at the conference.

Curtis L. Wagner, Jr.,

Chief Administrative Law Judge.

[FR Doc. 90-15095 Filed 6-28-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90-134-000]

Northern Natural Gas Co., Division of Enron Corp.; Petition for Permanent Waiver

June 22, 1990.

Take notice that on June 20, 1990, Northern Natural Gas Company, Division of Enron Corp. (Northern) filed a petition requesting a permanent waiver of § 154.302(j) of the Commission's regulations and a waiver of such other Commission regulations as may be appropriate to permit it to flow through its Purchase Gas Adjustment (PGA) clause the costs of ethane and/or an ethane mixture purchased by Northern and injected into its system supply during a period commencing May 1, 1990 and extending through April 30, 1991. Northern states that it was granted an extension of the waiver on May 31, 1989 under Docket No. RP89-142-000, which expired April 30, 1990. Northern also states that it has operated pursuant to the limited waiver for two years and has demonstrated the benefits of the ethane inclusion. Northern states that the original intent of its petition remains unchanged from the original order.

Northern states it will purchase ethane only when it is economically prudent to do so based on a consideration of the price of alternate supplies, dependability of the supply, and time required to deliver the supplies to the market. Northern points out that it does not anticipate such ethane purchases will involve any changes or additions to its facilities.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1988)). All such motions or protests should be filed on or before July 2, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-15098 Filed 6-28-90; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

Agency Information Collection Activities Under OMB Review

[FRL 3792-6]

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces OMB responses to Agency PRA clearance requests.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 382-2740.

SUPPLEMENTARY INFORMATION:

OMB Responses to Agency PRA Clearance Requests

EPA ICR #0161.04; Foreign Purchaser Acknowledgement Statement of Unregistered Pesticides; was disapproved 05/10/90.

EPA ICR #1241.04; Suspended and Cancelled Pesticide Products: Claim for Indemnification; was approved 04/25/90; OMB #2070-0071; expires 04/30/93.

EPA ICR #1554.01; Survey of Facilities Performing Surface Coating of Miscellaneous Metal Parts and Products; was approved 04/18/90; OMB #2060-0194; expires 04/30/91.

EPA ICR #0282.03; Emission Defect Information Report/Records; was approved 04/17/90; OMB #2060-0048; expires 04/30/93.

EPA ICR #0116.03; Emission Control System Performance Warranty Regulations and Voluntary Aftermarket Part Certification Program; was approved 04/17/90; OMB #2060-0060; expires 04/30/91.

EPA ICR #1088.02; NSPS for Onshore Natural Gas Processing Plants/ Equipment Leaks of VOC and Emissions of SO₂-Reporting and Recordkeeping; was approved 02/12/90; OMB #2060-0120; expires 04/30/93.

EPA ICR #0607.01; Pesticide Use Survey; was approved 05/10/90; OMB #2070-0115; expires 05/31/93.

EPA ICR #1431.03; Sole Source Aquifer Designation Program; was approved 05/18/90; OMB #2040-0109; expires 05/31/93.

EPA ICR #1431.04; Sole Source Aquifer Demonstration Program; was approved 05/18/90; OMB #2040-0142; expires 05/30/93.

EPA ICR #1427.02; Wastewater Permit Compliance Assessment Information; was approved 06/12/90; OMB #2040-0110, expires 06/30/93.

EPA ICR #0877.03; Environmental Radiation Ambient Monitoring System (ERAMS); was approved 06/12/90; OMB #2060-0015; expires 06/30/93.

EPA ICR #1057.05; Standards of Performance for New Stationary Sources Sulfuric Acid Plants (NSPS subpart H); was approved 06/12/90; OMB #2060-0122; expires 06/30/93.

EPA ICR #0180.03; Emission Recall Audit Program Owner Questionnaire; was approved 05/23/90; OMB #2060-0046; expires 02/28/93.

EPA ICR #0184.03; Vehicle Emission Control Defect Survey was approved 05/23/90; OMB #2060-0047; expires 02/28/93.

EPA ICR #0232.05; Lead Additive Report for Refineries and Importers—Lead Additive Report for Manufacturing Facility or Site; was approved 04/30/90; OMB #2060-0066; expires 04/30/93.

EPA ICR #1054.04; NSPS for Petroleum Refineries (Subpart J); Recordkeeping and Reporting Requirements; was approved 06/12/90; OMB #2060-0022; expires 06/30/93.

EPA ICR #0222.02; Investigations into Possible Noncompliance of Motor Vehicles with Federal Emission Standards; was approved 12/06/89; OMB #2060-0086; expires 12/31/92.

EPA ICR #1427; Wastewater Permit Compliance Assessment Information; expiration date was extended to 05/31/90.

EPA ICR #0002.04; Pretreatment Program Information Requirements; expiration date extended to 07/31/90.

EPA ICR #1028.03; Pesticide Manufacturing Facility Census for 1986; expiration date extended to 07/31/90.

EPA ICR #0909; Information Requirements for Construction Grants Delegation to States; expiration date extended to 07/31/90.

EPA ICR #1191; National Survey of Pesticides in Drinking Water Wells; expiration date extended to 07/31/90.

Non-Renewals

EPA has not renewed the clearance for the following ICRs: National Emission Standard for Inorganic Arsenic Emissions from Arsenic Trioxide and Metallic Arsenic Production Facilities (Subpart P)—ICR #2060-0042; and NESHAIP for Inorganic Arsenic Emissions from Primary Smelters—Reporting and Recordkeeping Requirements—ICR #1089; OMB #2060-

0044. The Agency collects the information associated with these ICRs from nine or fewer persons, and therefore the activity is no longer subject to OMB review under the Paperwork Reduction Act.

Dated: June 22, 1990.

Paul Lapsley,

Director, Information and Regulatory Systems Division.

[FR Doc. 90-15211 Filed 6-28-90; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-3792-9]

Environmental Impact Statements and Regulations, Availability of EPA Comments

Availability of EPA comments prepared June 11, 1990 through June 15, 1990 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382-5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in the *Federal Register*, dated April 13, 1990 (55 FR 13949).

Draft EISs

ERP No. DS-AFS-C65001-PR, Rating EC2, Caribbean National Forest and Luquillo Experimental Forest, Land and Resource Management Plan, Additional Alternatives, PR.

Summary

EPA expressed concerns about the project because of potential adverse water quality impacts due to soil erosion and the fact that existing conditions have changed as a result of hurricane damage since the document was prepared. EPA requested that the final supplemental address these issues.

ERP No. D-USN-K11039-CA, Rating EC1, San Diego Navy Broadway Complex Redevelopment, Implementation, CA.

Summary

EPA expressed environmental concerns with various aspects of the project. EPA urged the adoption of water conservation and solid waste recycling measures and measures to protect air quality. EPA also asked for additional information and mitigation measures on project features under the Federal laws governing hazardous waste, hazardous substances contamination and control of toxic

substances: RCRA, Superfund and TSCA.

Final EISs

ERP No. F-AFS-J65152-MT, Upper Yaak River Drainage Area, Timber Harvest and Road Construction/Reconstruction, Kootenai National Forest, Lincoln County, MT.

Summary

EPA has no objection to the preferred alternative.

ERP No. F-AFS-K65122-CA, Penney Ridge Fire Salvage and Resource Recovery Project, Implementation, Shasta-Trinity National Forest, Trinity County, CA.

Summary

EPA has no objection to the proposed action.

ERP No. F-FAA-F51038-OH, Toledo Express Airport Expansion, Airport Layout Plan, Approval and Funding, Lucas County, OH.

Summary

EPA feels FAA has responded affirmatively to EPA's concerns by including additional noise analysis within the final EIS, modifying the scope of the part 150 Noise Compatibility Process to include the Ldn 60 contour, and by addressing the NEPA procedural questions through a cooperative systematic study to be conducted in consultation with the Council on Environmental Quality. In addition, FAA has committed to carry out appropriate wetland delineations and mitigation plan development in response to EPA's concerns.

ERP No. F-NOA-A91055-00, Swim-With-The-Dolphin Programs, Use of Marine Mammals, Implementation.

Summary

Review of the final EIS has been completed and the project found to be satisfactory.

ERP No. F-UAF-K11036-CA, George Air Force Base Closure, 37th Tactical Fighter Wing, Relocation to Mountain Home AFB, Idaho and Davis Mountain AFB in Arizona, Implementation, San Bernardino County, CA.

Summary

Review of the final EIS was not deemed necessary. No formal letter was sent to the agency.

Dated: June 26, 1990.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 90-15220 Filed 6-28-90; 8:45 am]

BILLING CODE 6560-50-M

(ER-FRL-3792-8)

Environmental Impact Statements; Availability

Responsible Agency: Office of Federal Activities, General Information, (202) 382-5073 or (202) 382-5075.

Availability of Environmental Impact Statements

Filed June 18, 1990 Through June 22, 1990 Pursuant to 40 CFR 1506.9.

EIS No. 900214, Final, AFS, MT, Wilson Creek Gold Project, Exploration and Mining Operating Plan Approval, Elkhorn Mountain Range, Helena National Forest, Helena County, MT, Due: July 30, 1990, Contact: Dennis Heffner, (406) 449-5201.

EIS No. 900215, Draft, NPS, VA, Roanoke River/Blue Ridge Parkway Extension, Recreational and Interpretive Facilities, Construction, Roanoke/Vinton City Limits to Smith Mountain Lake, Land Acquisition and Funding, COE section 10 and 404 Permits, Bedford, Franklin and Roanoke Counties, VA, Due: August 13, 1990, Contact: Mary McMenimer, (303) 969-2410.

EIS No. 900216, DRevised, FHW, ND, Washington Street Corridor Improvements, Century Avenue to Bismarck Expressway, Burlington Northern Railroad Washington Street Underpass, Funding, Burleigh County, ND, Due: August 13, 1990, Contact: John C. Kliethermes, (701) 420-0002.

EIS No. 900217, DSUPPL, EPA, FL, Tallahassee-Leon County Wastewater Management Plan, Centralization and Decentralization for Wastewater Conveyance and Treatment at Lake Bradford Road Plant and T.P. Smith Facility, Grant, Tallahassee, Leon County, FL, Due: August 24, 1990, Contact: Heinz J. Mueller, (404) 347-3776.

EIS No. 900218, Draft, USN, NJ, Naval Weapons Station Earle Trestle Replacement, Construction, COE Section 10 Permit, Sandy Hook Bay, Colts Neck, Monmouth County, NJ, Due: August 13, 1990, Contact: Robert Ostermueller, (215) 897-6262.

EIS No. 900219, LDraft, AFS, WA, Upper Klickitat River Wild and Scenic River Study, Designation or Nondesignation, National Wild and Scenic River System, Yakima Indian Nation, Klickitat County, WA, Due: August 13, 1990, Contact: Steve Mellor, (503) 386-2333.

EIS No. 900220, Final, NAS, PRO, Galileo Mission Project, Jovian System Investigation Program and Ulysses Mission Project, Heliosphere Exploration Program, Modifications and Implementation, Due: July 30, 1990,

Contact: Dr. Dudley G. McConnell, (202) 453-1537.

EIS No. 900221, Final, USN, GU, TT, Relocatable Over-the-Horizon Radar (ROTHR)/Electronic Installations in the Western Pacific, Construction and Operation, Tinian, Commonwealth of the Northern Mariana Islands and Guam, Due: July 30, 1990, Contact: P. Hiller, (808) 471-3088.

EIS No. 900222, Final, USA, MA, NJ, AZ, Fort Huachuca, Fort Devens and Fort Monmouth Base Realignment Transfer of Missions and Functions, Implementation, Cochise County, AZ, Worcester and Middlesex Counties, MA and Monmouth County, NJ, Due: July 30, 1990, Contact: Ron Ganzfried, (213) 894-6079.

EIS No. 900223, Final, AFS, WA, Gifford Pinchot National Forest, Land and Resource Management Plan, Implementation, Clark, Lewis, Klickitat, Cowlitz, Skamania and Yakima Counties, WA, Due: July 30, 1990, Contact: Gregory Cox, (206) 696-7500.

Amended Notices

EIS No. 900130, Draft, AFS, CA, Plumas National Forest Prototype Project, Augmenting Snow Pack by Cloud Seeding Using Ground Based Dispensers, Implementation, Plumas and Sierra Counties, CA, Due: June 29, 1990, Contact: R. C. Bennett, (916) 283-1367.

Published FR 4-27-90—Review period extended.

EIS No. 900199, Final, AFS, WA, Mount Baker-Snoqualmie National Forest, Land and Resource Management Plan, Implementation, King, Pierce, Skagit, Snohomish and Whatcom Counties, WA, Due: July 30, 1990, Contact: Robert Dunblazier, (206) 442-4888.

Published FR 06-15-90—Review Period reestablished.

Dated: June 26, 1990.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 90-15221 Filed 6-28-90; 8:45 am]

BILLING CODE 5580-50-M

[PF-539; FRL-3740-8]

Pesticide Tolerance Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces initial filings for pesticide petitions (PP) and for food and feed additive petitions (FAP) proposing the establishment of regulations for residues of certain pesticide chemicals in or on various agricultural commodities.

ADDRESSES: By mail, submit written comments to: Public Docket and Freedom of Information Section, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., Sw., Washington, DC 20460. In person, bring comments to: Rm. 246, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 246 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Registration Division (H-7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, contact the PM named in each petition at the following office location/telephone number:

Product Manager	Office location/telephone number	Address
Dennis Edwards (PM 12).	Rm. 202, CM #2, 703-557-2386.	1921 Jefferson Davis Hwy., Arlington, VA.
George LeRocca (PM 15).	Rm. 204, CM #2, 703-557-2400.	Do.
Phil Hutton (PM 17).	Rm. 207, CM #2, 703-557-2690.	Do.
Susan Lewis (PM 21).	Rm. 227, CM #2, 703-557-1900.	Do.
Joanne Miller (PM 23).	Rm. 237, CM #2, 703-557-1830.	Do.
Robert Taylor (PM 25).	Rm. 245, CM #2, 703-557-1800.	Do.

SUPPLEMENTARY INFORMATION: EPA has received pesticide petitions as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemicals in or on various agricultural commodities.

Initial Filings

1. PP OF3831. BASF Corp., 100 Cherry Hill Rd., Parsippany, NJ 07054, proposes

to amend 40 CFR 180.412 by establishing a regulation to permit combined residues of the herbicide 2-[[2-ethoxyimino]butyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one and its metabolites containing 2-cyclohexen-1-one moiety (calculated as the herbicide) in or on strawberries at 10.0 ppm. The proposed analytical method for determining residues of poast herbicide and its metabolites is gas chromatography. (PM 25)

2. *PP OF3833*. Rhone-Poulenc AG Co., P.O. Box 12014, 2 T.W. Alexander Drive, Research Triangle Park, NC 27709, proposes to amend 40 CFR 180.407 by establishing a regulation to permit combined residues of thiodicarb and its metabolite, methomyl (S-methyl N-[(methylcarbamoyl)oxy]thioacetimidate) in or on apples at 3.0 ppm. Analytical method used is gas liquid chromatography. (PM 12)

3. *PP OF3841*. Rhone-Poulenc Ag. Co., P.O. Box 12014, 2 T.W. Alexander Drive, Research Triangle Park, NC 27709, proposes to amend 40 CFR 180.415 by establishing a regulation to permit residues of the fungicide aluminum tris (o-ethyl phosphonate) in or on the crop group brassica at 45 ppm. Analytical method used is flame photometric gas chromatography. (PM 21)

4. *PP OF3842*. ICI Americas, Inc., Concord Pike & New Murphy Rd., Wilmington, DE 19897, proposes to amend 40 CFR 180.411(c) by establishing a regulation to permit combined residues of the herbicide [R]-2-[4-[[5-(trifluoromethyl)-2-pyridinyl]oxy]phenoxy]propanoic acid (fluazifop), both free and conjugated, and of [R]-butyl-2-[4-[[5-(trifluoromethyl)-2-pyridinyl]oxy]propanoate (fluazifop-P-butyl)], all expressed as fluazifop, at 0.05 ppm in or on citrus fruit. Analytical method used is high-performance liquid gas chromatography with ultraviolet detection. (PM 23)

5. *PP OF3847*. Sandoz Crop Protection Corp., 1300 East Toughy Ave., Des Plaines, IL, proposes to amend 40 CFR 180.427 by establishing a regulation to permit residues of fluralinate [(RS)-alpha-cyano-3-phenoxybenzyl (R)-2-[2-chloro-4-(trifluoromethyl)-anilino]-3-methylbutanoate] in or on alfalfa hay at 5.5 ppm, alfalfa forage (green) at 1.5 ppm, alfalfa seed at 0.25 ppm; and by increasing residues of fluralinate in or on fat of cattle, goats, hogs, horses, poultry, and sheep from 0.01 ppm to 0.25 ppm, and milk from .01 ppm to 0.05 ppm. Analytical method used is gas chromatography. (PM 15)

6. *PP OF3848*. Rhone-Poulenc AG Co., P.O. Box 12014, T.W. Alexander Drive,

Research Triangle Park, NC 27709, proposes to amend 40 CFR 180.324 by establishing a regulation to permit residues of the herbicide bromoxynil (3,5-dibromo-4-hydroxybenzonitrile) in or on rice grain and rice straw at 0.10 ppm. Analytical method used is gas chromatography. (PM 25)

7. *PP OF3851*. Concep Membrane, Inc., P.O. Box 6069, Bend, OR 97706, proposes to amend 40 CFR part 180 by establishing a regulation to exempt from the requirement of a tolerance residues of the insecticide E,E-8,10-dodecadien-1-ol in or on all raw agricultural commodities. (PM 17)

8. *PP OF3852*. E.I. du Pont and Co., P.O. Box 80038, Wilmington, DE 19880-0038, proposes to amend 40 CFR 180.379 by establishing a regulation to permit residues of the pesticide esfenvalerate [S-alpha-cyano-(3-phenoxyphenyl)methyl S-4-chloro-alpha-(1-methylethyl)benzeneacetate] in or on alfalfa, green forage, and hay at 15.0 ppm; lettuce, head at 5.0 ppm; and alfalfa seed at 1.0 ppm. The analytical method is gas liquid chromatography. (PM 15)

9. *PP OF3855*. BASF Corp., P.O. Box 13528, Research Triangle Park, NC 27709-3258, proposes to amend 40 CFR 180.412 by establishing a regulation to permit combined residues of the herbicide 2-[1-(ethoxyimino)butyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one and its metabolites containing 2-cyclohexen-1-one moiety (calculated as the herbicide) in or on tree nuts at 0.2 ppm and almond hulls at 2.0 ppm. The proposed analytical method is gas chromatography using sulfur-specific flame photometric detection. (PM 25)

10. *PP OF3856*. Rohm and Haas Co., Independence Mall West, Philadelphia, PA 19105, proposes to amend 40 CFR 180.381 by establishing a regulation to permit combined residues of the herbicide oxyfluorfen, 2-chloro-1-(3-ethoxy-4-nitrophenoxy)-4-trifluoromethyl benzene, and its metabolites containing the diphenyl ether linkage in or on citrus fruits at 0.05 ppm. (PM 23)

11. *FAP OH5594*. BASF Corp., 100 Cherry Hill Rd., Parsippany, NJ 07054, proposes to amend 40 CFR Part 186 by establishing a feed additive regulation to permit residues of the herbicide 3,7-dichloroquinolinecarboxylic acid in or on the animal feed rice bran at 15.0 ppm. (PM 25)

12. *FAP OH5596*. ICI Americas, Inc., Concord Pike & New Murphy Rd., Wilmington, DE 19897, proposes to amend 40 CFR 186.3250 by establishing a regulation for a feed additive tolerance to permit residues of [R]-2-[4-[[5-

(trifluoromethyl)-2-pyridinyl]oxy]phenoxy]propanoic acid (fluazifop), both free and conjugated, and of [R]-butyl-2-[4-[[5-(trifluoromethyl)-2-pyridinyl]oxy]phenoxy]propanoate (fluazifop-P-butyl)], all expressed as fluazifop, at 0.10 ppm in or on dried citrus pulp. The analytical method used is high-performance liquid gas chromatography with ultraviolet detection. (PM 23)

Authority: 7 U.S.C. 136a.

Dated: June 12, 1990.

Stephanie R. Irene,
Acting Director, Registration Division, Office
of Pesticide Programs.

[FR Doc. 90-15197 Filed 6-28-90; 8:45 am]

BILLING CODE 6560-50-D

[OPP-100078; FRL-3767-8]

Midwest Research Institute; Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This is a notice to certain persons who have submitted information to EPA in connection with pesticide information requirements imposed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA). Midwest Research Institute (MRI) has been awarded a contract to perform work for the EPA Office of Air Quality Planning and Standards and will be provided access to certain information submitted to EPA under FIFRA and the FFDCA. Some of this information may have been claimed to be confidential business information (CBI) by submitters. This information will be transferred to MRI consistent with the requirements of 40 CFR 2.307(h)(3) and 40 CFR 2.308(i)(2), respectively. This action will enable MRI to fulfill the obligations of the contract and this notice serves to notify affected persons.

DATES: Midwest Research Institute will be given access to this information no sooner than July 5, 1990.

FOR FURTHER INFORMATION CONTACT: By mail: Catherine S. Grimes, Program Management and Support Division (H7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 212, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 557-4460.

SUPPLEMENTARY INFORMATION: Under Contract No. 68-02-4379, MRI will

prepare an Alternative Control Techniques (ACT) document and develop a rule to be referenced by the California Federal Implementation Plan (FIP) for the control of volatile organic compounds (VOC) emitted from pesticides. MRI will provide: (1) The estimation of VOC emissions from the application of pesticides in California, (2) the characterization of the formulation process and the end use patterns for the industry profile, (3) the examination of control options to reduce VOC emissions, and (4) the recommendation of control options to be applied in FIP and ACT (which will include estimates of control efficiency costs). The environmental, economic, and other impacts of the control alternatives to be adopted into the FIP will be analyzed by MRI in detail as they apply to California. MRI will also develop the regulatory language for the implementation of the selected control measures.

The Office of Air Quality Planning and Standards and the Office of Pesticide Programs have jointly determined that Contract No. 68-02-4379, involves work that is being conducted in connection with FIFRA, in that pesticide chemicals will be the subject of certain evaluations to be made under this contract. These evaluations may be used in subsequent regulatory decisions under FIFRA.

Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under sections 3, 6, and 7 of FIFRA and obtained under sections 408 and 409 of the FFDCA.

In accordance with the requirements of 40 CFR 2.307(h)(3) and 2.308(i)(2), the contract with MRI prohibits use of the information for any purpose other than the purposes specified in the contract, prohibits disclosure of the information in any form to a third party without prior written approval from the Agency or affected business, and requires that each official and employee of the contractor sign an agreement to protect the information from unauthorized release and to handle it in accordance with the FIFRA Information Security Manual. In addition, MRI is required to submit for EPA approval a security plan under which any CBI will be secured and protected against unauthorized release or compromise. No information will be provided to this contractor until the above requirements have been fully satisfied. Records of information provided to this contractor will be maintained by the Project Officer for this contract in the EPA Office of Air Quality Planning and Standards. All

information supplied to MRI by EPA for use in connection with this contract will be returned to EPA when MRI has completed its work.

Dated: June 20, 1990.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 90-15199 Filed 6-28-90; 8:45 am]

BILLING CODE 6560-50-D

[OPP-36140A; FRL-3769-1]

Inert Ingredients in Pesticide Products; Policy Statement; Revision and Modification of Lists; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; correction.

SUMMARY: EPA is correcting a notice that revised and modified previously published lists of inert ingredients in pesticide products that are of toxicological concern and require priority testing.

EFFECTIVE DATE: June 29, 1990.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs, Registration Support Branch, Registration Division (H-7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., Sw., Washington, DC 20460, (703)-557-7700.

SUPPLEMENTARY INFORMATION: In FR doc. 89-27213, appearing in the *Federal Register* of November 22, 1989 (54 FR 48314), the following corrections are made:

1. In List 2 in the second column of page 48315, correct the CAS No. 5131-86-8 for the chemical 1-Butoxy-2-propanol to read, "5131-66-8."

2. In List 2 in the second column of page 48315, the entry "Isopropyl phenols Petroleum hydrocarbons" with the corresponding CAS No. 25168-06-3 is corrected to specify that the entry is in fact two separate chemicals, Isopropyl phenols with the CAS No. 25168-06-3 and Petroleum hydrocarbons with no corresponding CAS No. listed.

3. In List 2 in the third column of page 48315, the entry "Methyl methacrylate Xylene-range aromatic solvents" with the corresponding CAS No. 80-62-6 is corrected to specify that the entry is in fact two separate chemicals, methyl methacrylate with the corresponding CAS No. 80-62-6 and Xylene-range aromatic solvents with no corresponding CAS No. listed.

Dated: June 11, 1990.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 90-15195 Filed 6-28-90; 8:45 am]

BILLING CODE 6560-50-D

[PP 9G3700 and 7G3465/T596; FRL 3743-3]

Clofentezine; Initial Filings and Extension of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established temporary tolerances and has extended temporary tolerances for clofentezine, in or on certain raw agricultural commodities.

DATES: These temporary tolerances expire April 2, 1991.

FOR FURTHER INFORMATION CONTACT: By mail: Dennis Edwards, Product Manager (PM) 12, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 205, CM#2, 1921 Jefferson Davis Highway, Arlington, VA (703)-557-2386.

SUPPLEMENTARY INFORMATION: EPA gives notice that it has established and extended temporary tolerances relating to the initial filings and extensions of tolerances for clofentezine, in or on certain raw agricultural commodities, as follows:

Initial Filing

1. PP 9G3700 Nor-Am Chemical Co., P.O. Box 7495, 3509 Silverside Rd., Wilmington, DE 19803, has requested in pesticide petition (PP) 9G3700 the establishment of a temporary tolerance for clofentezine [3,6-Bis(2-chlorophenyl)-1,2,4,5-tetrazine] in or on the raw agricultural commodity walnut (meat) at 0.02 part per million (ppm). This temporary tolerance will permit the marketing of the above raw agricultural commodity when treated in accordance with the provisions of the experimental use permit 45639-EUP-41, which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (Pub. L. 95-396, 92 Stat. 819; 7 U.S.C. 136).

Extension

2. PP 7G3465 Nor-Am Chemical Co. requested EPA by a notice issued in the *Federal Register* of May 11, 1988 (53 FR 16780), to establish temporary tolerances for clofentezine [3,6-Bis(2-chlorophenyl)-1,2,4,5-tetrazine] in or on the raw agricultural commodities

almond hulls at 15.0 ppm, almond nutmeat at .04 ppm, peaches at 1.0 ppm, nectarines at 1.0 ppm, meat and meat byproducts of cattle at 0.05 ppm, cattle kidney at 0.05 ppm, cattle liver at 0.20 ppm, and milk at 0.05 ppm.

These temporary tolerances have been extended to permit the continued marketing of the raw agricultural commodities named above when treated in accordance with the provisions of experimental use permit 45639-EUP-33, which is being extended under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (Pub. L. 95-396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that the extension of these temporary tolerances will protect the public health. Therefore, the temporary tolerances have been extended on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. Nor-Am Chemical Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These tolerances expire April 2, 1991. Residues not in excess of these amounts remaining in or on the raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerances. These tolerances may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification

statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

Authority: 21 U.S.C. 346a(j).

Dated: June 18, 1990.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 90-15200 Filed 6-23-90; 8:45 am]

BILLING CODE 6560-50-D

[OPP-66141; FRL-3772-9]

Pesticide Products Containing Phenylmercury and Other Mercury Compounds; Receipt of Requests for Voluntary Cancellation and Amendments To Delete Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Pesticide cancellations and amendments.

SUMMARY: In response to concerns by EPA regarding the risks associated with use of mercury products in interior paints and coatings, the registrants have applied to amend the registrations for certain mercury products to delete labeling for use in interior paints and coatings and have requested voluntary cancellation of the registrations for certain other mercury products labeled for use in paints and coatings. All stocks of affected products, including stocks in the hands of end-users, must be stickered by August 20, 1990, with language prohibiting use in interior paints and coatings. Existing stocks of cancelled products which have been properly stickered may be sold and used until June 27, 1991.

DATES: The cancellation order and amendments to delete uses incorporated in this notice will become effective July 2, 1990. Use of cancelled and amended mercury products in interior paints and coatings will be unlawful effective on August 20, 1990. Existing stocks of cancelled products which have been properly stickered may be sold and used until June 27, 1991.

FOR FURTHER INFORMATION CONTACT: Beth Edwards, Special Review Branch, Special Review and Reregistration Division (H7508C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 3rd Floor, 2805 Jefferson Davis Highway, Arlington, VA (703) 308-8010.

SUPPLEMENTARY INFORMATION:

I. EPA Conclusions Concerning Use of Mercury in Interior Paints and Coatings

Following receipt of reports concerning a 4-year old child who developed acrodynia (a rare form of mercury poisoning) after his home was painted with paint containing mercury and a followup investigation by the Centers for Disease Control and the State of Michigan of mercury levels in other homes painted with similar paint, EPA initiated a comprehensive review of the risks and benefits associated with the use of mercurial compounds in paints and coatings. After evaluating the available evidence concerning exposure to mercury resulting from use in paints and coatings, toxicity of mercury and mercury compounds, and availability of alternative biocides, EPA concluded that the continued use of mercurial compounds in the manufacture of interior paints and coatings would present an unreasonable risk of adverse health effects. EPA also concluded that the available data were insufficient to enable full evaluation of the risks and benefits associated with use of mercurial compounds in exterior paints and coatings, and that the registrants should develop and submit additional data concerning this use.

After completing its review, EPA initiated discussions with the registrants of mercury products labeled for use in paints and coatings to determine whether the necessary changes in the legal status of such products could be achieved by voluntary action. The registrants then agreed to submit the amendments to delete uses and the requests for voluntary cancellation described in this notice. This notice is being published to advise the public of the changes in sale, distribution, and use to be implemented for the affected products, and to meet the legal requirements established by FIFRA section 6(f)(1), 7 U.S.C. 136d(f)(1).

II. Conditional Amendments to Delete Use

Cosan Chemical Corporation and Troy Chemical Corporation have applied to conditionally amend pursuant to FIFRA section 3(c)(7)(a) their registrations for certain pesticide products containing phenylmercuric acetate (PMA) which are presently labeled for use in formulation of paints and coatings. The names and EPA registration numbers for these products are as follows:

Cosan PMA-100 EPA Registration No. 8489-5

Trovan PMA-100 EPA Registration No. 5383-4

EPA intends to grant the applications to amend the registrations for these products on July 2, 1990. The revised labeling required by the amended registrations for these products will: (1) Prohibit use of these products in manufacture or formulation of any paint or coating intended or labeled for interior use, (2) limit use of these products to only those exterior paints and coatings which are labeled with a specific warning against interior use, and (3) specify maximum application rates for use of these products in exterior paints and coatings. The registrants have also agreed as a condition of registration to develop and submit additional data pertaining to the risks and benefits associated with continued use of PMA products in exterior paints and coatings.

For each of the products concerning which Cosan Chemical Corporation or Troy Chemical Corporation has submitted an application for conditional amendment, the registrant will be required to affix a sticker incorporating the new label requirements to all stocks of the product distributed or sold by the registrant on or after July 23, 1990. For each product, the registrant will also be required by July 23, 1990, to deliver stickers to all end-users who are holding inventory of the product. Each end-user will be required to affix the stickers on or before August 20, 1990, to all stocks of the product remaining in its inventory. After August 20, 1990, use of any stocks of these products in a manner inconsistent with the amended labeling will be unlawful.

Vikon Chemical Company has also applied to conditionally amend pursuant to FIFRA section 3(c)(7)(a) its registrations for MERKYL MAP, EPA Registration No. 6390-20 and VIKON PMA-30, EPA Registration No. 6390-21, products which are presently labeled for use in manufacture of outdoor fabrics and in paint, to delete all label instructions and claims pertaining to use of these products in paint. EPA intends to grant the applications to amend the registrations for these products on July 2, 1990. Vikon will be required to affix revised labeling to all stocks of these products which are distributed or sold by Vikon on or after July 23, 1990. Vikon will also be required to deliver revised labels to each of its customers holding stocks of these products by July 23, 1990.

III. Requests For Voluntary Cancellation

Akzo Chemicals, Inc., Cosan Chemical Corporation, Huls America, Inc., Thor Chemicals, Inc., and Troy Chemical Corporation have each submitted requests pursuant to FIFRA section 6(f)(1) for voluntary cancellation of the registrations for particular pesticide products which contain phenylmercuric acetate (PMA), di(phenylmercuric) dodecyl succinate (PMDS), phenylmercuric oleate (PMO), or 3-(chloromethoxy)propylmercuric acetate (CMPA), and which are labeled for use in formulation of paints and coatings. The registrants, product names, and EPA registration numbers for these products are as follows:

Registrant	Product	EPA Registration No.
Akzo Chemicals, Inc.	Intercede 60.....	34688-24
Cosan Corporation.	Cosan PMO-30.	8489-1
Cosan Corporation.	Cosan PMA-30..	8489-2
Huls America, Inc.	Super Ad-It Fungicide.	1100-37
Huls America, Inc.	PMA-18.....	1100-56
Huls America, Inc.	PMA-60.....	1100-80
Thor Chemicals, Inc.	Thor PMA-100.	53034-1
Troy Chemical Corporation.	Troysan PMA-30.	5383-4
Troy Chemical Corporation.	Troysan CMP Acetate.	5383-10
Troy Chemical Corporation.	Troysan PMDS-10.	5383-62

EPA intends to grant the requests for voluntary cancellation of the registrations for the above products on July 2, 1990.

IV. Existing Stocks

EPA has decided that it will permit continued sale and use of existing stocks of voluntarily cancelled products containing PMA, PMDS, PMO, and CMPA, for manufacture and formulation of exterior paints and coatings until June 27, 1991, subject to specific mandatory terms and conditions. FIFRA section 6(a)(1), 7 U.S.C. section 136d(a)(1), provides that EPA may permit continued sale and use of existing stocks of cancelled products for specific uses and subject to specific conditions, if EPA determines "that such sale or use is not inconsistent with the purposes of this Act and will not have unreasonable adverse effects on the environment." The terms and conditions which will govern sale and use of existing stocks of cancelled mercury products are

essentially identical to the amended terms and conditions which will apply to the specific mercury products that will remain registered for use in exterior paints and coatings. Thus, the analysis of risks and benefits upon which the Agency's decision to permit continued registration is based also provides the basis for the substantive determination required by FIFRA section 6(f)(1).

Each registrant of a voluntarily cancelled mercury product has submitted the text for a sticker which includes provisions that: (1) Prohibit use of the product in manufacture or formulation of any paint or coating intended or labeled for interior use, (2) limit use of the product to only those exterior paints and coatings which are labeled with a specific warning against interior use, (3) specify maximum application rates for use of the product in exterior paints and coatings, and (4) provide that sale, distribution, and use of the product will be unlawful after June 27, 1991. Except for the expiration date for use of existing stocks, these are the same provisions included in the revised labeling for PMA paint and coating products with amended registrations.

The cancellation order will require each registrant or other person to affix a sticker incorporating the new label requirements to all stocks of the product distributed or sold by on or after July 23, 1990. The cancellation order also will require each registrant of a cancelled product to deliver stickers by July 23, 1990, to all end-users who are holding inventory of the product, and will provide that stocks of each cancelled product remaining in the inventory of end-users may not be lawfully used after August 20, 1990, unless the end-user has affixed the new sticker to the product and all use of the product is in full conformity with the instructions on the sticker.

V. Cancellation Order

Effective on July 2, 1990, the registrations for the following pesticide products are cancelled pursuant to section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. section 136d(f)(1):

Registrant	Product	EPA Registration No.
Akzo Chemicals, Inc.	Intercede 60.....	34688-24
Cosan Corporation.	Cosan PMO-30.	8489-1
Cosan Corporation.	Cosan PMA-30..	8489-2

Registrant	Product	EPA Registration No.
Huls America, Inc.	Super Ad-It Fungicide.	1100-37
Huls America, Inc.	PMA-18.....	1100-56
Huls America, Inc.	PMA-60.....	1100-80
Thor Chemicals, Inc.	Thor PMA-100...	53034-1
Troy Chemical Corporation.	Troysan PMA-30.	5383-4
Troy Chemical Corporation.	Troysan CMP Acetate.	5383-10
Troy Chemical Corporation.	Troysan PMDS-10.	5383-62

Effective on July 2, 1990, it shall be unlawful under FIFRA section 12(a)(1)(A) and/or FIFRA section 12(a)(2)(K), 7 U.S.C. sections 136j(a)(1)(A), 136j(a)(2)(K), for any person to distribute or sell, or to use for any pesticidal purpose, any of these cancelled products except in full compliance with all of the provisions concerning existing stocks set forth below.

The Agency has determined that existing stocks of each pesticide product cancelled by this order may be sold, distributed, and used until June 27, 1991, subject to all of the following mandatory terms and conditions. For each cancelled product, the registrant has submitted as part of its request for voluntary cancellation under FIFRA section 6(f)(1) the text for a sticker which includes label provisions: (1) Prohibiting use of the product in manufacture or formulation of any paint or coating intended or labeled for interior use, (2) limiting use of the product in exterior paints and coatings to only those products which are labeled with a warning against interior use, (3) specifying maximum application rates for use in exterior paints and coatings, and (4) providing that sale, distribution, and use of the product will be unlawful after June 27, 1991. Effective on July 23, 1990, no person shall distribute or sell in any State any quantity of a pesticide product cancelled by this order unless the approved sticker for that product has been affixed to each container of the product. Effective on August 20, 1990, no person shall use in any State any quantity of a pesticide product cancelled by this order unless the approved sticker for that product has been affixed to each container of the product and such use is in full conformity with all of the instructions on the sticker. For each cancelled product, the registrant shall by July 23, 1990, deliver to, and verify receipt by, each customer or other end-user holding inventory of the product: (1)

Quantities of the approved sticker for that product which are sufficient to affix the sticker to each container of the product in the customer's or end-user's inventory, and (2) a letter advising the customer or end-user of the effective dates for the revised labeling on the stickers and instructing the customer or end-user to affix the sticker to each container of the product on or before August 20, 1990.

Dated: June 25, 1990.

Edwin F. Tinsworth,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 90-15069 Filed 6-28-90; 8:45 am]

BILLING CODE 6560-50-D

[OPTS-51750; FRL 3772-2]

Toxic and Hazardous Substances; Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the Federal Register of May 13, 1983 (48 FR 21722). This notice announces receipt of 162 such PMNs and provides a summary of each.

DATES: Close of Review Periods:

P 90-1118, 90-1119, 90-1173, 90-1176, 90-1177, 90-1178, 90-1181, 90-1183, 90-1184, 90-1185, 90-1186, 90-1191, 90-1192, 90-1193, 90-1194, 90-1195, 90-1196, 90-1197, 90-1198, 90-1199, 90-1200, 90-1201, 90-1202, 90-1203, 90-1204, 90-1205, 90-1206, 90-1207, 90-1208, 90-1209, 90-1210, 90-1211, 90-1212, 90-1213, 90-1214, 90-1215, 90-1216, 90-1217, 90-1218, 90-1219, 90-1220, 90-1221, 90-1222, 90-1223, 90-1224, 90-1225, 90-1226, 90-1227, 90-1228, 90-1229, 90-1230, 90-1231, 90-1232, 90-1233, 90-1234, 90-1235, 90-1236, 90-1237, 90-1238, 90-1239, 90-1240, 90-1241, 90-1242, 90-1243, 90-1244, 90-1245, 90-1246, 90-1247, 90-1248, 90-1249, 90-1250, 90-1251, 90-1252, 90-1253, 90-1254, 90-1255, 90-1256, 90-1257, 90-1258, 90-1259, 90-1260, 90-1261, 90-1262, 90-1263, 90-1264, 90-1265, 90-1266, 90-1267, 90-1268, 90-1269, 90-1270, 90-1271, July 21, 1990.

P 90-1272, 90-1273, 90-1274, 90-1275, 90-1276, 90-1277, July 22, 1990.

P 90-1278, August 27, 1990.

P 90-1279, 90-1280, July 22, 1990.

P 90-1281, July 23, 1990.

P 90-1282, 90-1283, 90-1284, 90-1285, July 25, 1990.

P 90-1286, 90-1287, 90-1288, 90-1289, 90-1290, July 28, 1990.

P 90-1291, 90-1292, 90-1294, 90-1295, 90-1296, 90-1297, 90-1298, 90-1299, 90-1300, 90-1301, 90-1302, 90-1303, 90-1304, 90-1305, 90-1306, 90-1307, 90-1308, July 29, 1990.

P 90-1309, 90-1310, 90-1311, 90-1312, July 30, 1990.

P 90-1313, 90-1314, 90-1315, 90-1316, 90-1317, July 31, 1990.

P 90-1318, 90-1319, 90-1320, 90-1321, 90-1322, 90-1323, 90-1324, August 1, 1990.

P 90-1325, August 4, 1990.

P 90-1326, 90-1327, 90-1329, 90-1330, 90-1331, 90-1332, 90-1333, 90-1334, 90-1335, 90-1336, 90-1337, August 5, 1990.

P 90-1338, 90-1339, 90-1340, 90-1341, 90-1342, 90-1343, August 6, 1990.

Written comments by:

P 90-1118, 90-1119, 90-1173, 90-1176, 90-1177, 90-1178, 90-1181, 90-1183, 90-1184, 90-1185, 90-1186, 90-1191, 90-1192, 90-1193, 90-1194, 90-1195, 90-1196, 90-1197, 90-1198, 90-1199, 90-1200, 90-1201, 90-1202, 90-1203, 90-1204, 90-1205, 90-1206, 90-1207, 90-1208, 90-1209, 90-1210, 90-1211, 90-1212, 90-1213, 90-1214, 90-1215, 90-1216, 90-1217, 90-1218, 90-1219, 90-1220, 90-1221, 90-1222, 90-1223, 90-1224, 90-1225, 90-1226, 90-1227, 90-1228, 90-1229, 90-1230, 90-1231, 90-1232, 90-1233, 90-1234, 90-1235, 90-1236, 90-1237, 90-1238, 90-1239, 90-1240, 90-1241, 90-1242, 90-1243, 90-1244, 90-1245, 90-1246, 90-1247, 90-1248, 90-1249, 90-1250, 90-1251, 90-1252, 90-1253, 90-1254, 90-1255, 90-1256, 90-1257, 90-1258, 90-1259, 90-1260, 90-1261, 90-1262, 90-1263, 90-1264, 90-1265, 90-1266, 90-1267, 90-1268, 90-1269, 90-1270, 90-1271, June 21, 1990.

P 90-1272, 90-1273, 90-1274, 90-1275, 90-1276, 90-1277, June 22, 1990.

P 90-1278, July 28, 1990.

P 90-1279, 90-1280, June 22, 1990.

P 90-1281, June 23, 1990.

P 90-1282, 90-1283, 90-1284, 90-1285, June 25, 1990.

P 90-1286, 90-1287, 90-1288, 90-1289, 90-1290, June 28, 1990.

P 90-1291, 90-1292, 90-1294, 90-1295, 90-1296, 90-1297, 90-1298, 90-1299, 90-1300, 90-1301, 90-1302, 90-1303, 90-1304, 90-1305, 90-1306, 90-1307, 90-1308, June 29, 1990.

P 90-1309, 90-1310, 90-1311, 90-1312, June 30, 1990.

P 90-1313, 90-1314, 90-1315, 90-1316, 90-1317, July 1, 1990.

P 90-1318, 90-1319, 90-1320, 90-1321, 90-1322, 90-1323, 90-1324, July 2, 1990.

P 90-1325, July 5, 1990.

P 90-1328, 90-1327, 90-1329, 90-1330, 90-1331, 90-1332, 90-1333, 90-1334, 90-1335, 90-1336, 90-1337, July 6, 1990.

P 90-1338, 90-1339, 90-1340, 90-1341, 90-1342, 90-1343, July 7, 1990.

ADDRESSES: Written comments, identified by the document control number "(OPTS-51749)" and the specific PMN number should be sent to: Document Processing Center (TS-790), Office of Toxic Substances, Environmental Protection Agency, 401 M Street, SW., Room L-100, Washington, DC, 20460, (202) 382-3532.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, Room EB-44, 401 M Street, SW., Washington, DC 20460 (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the Public Reading Room NE-C904 at the above address between 8 a.m. and 4 p.m., Monday through Friday, excluding legal holidays.

P 90-1118

Manufacturer. S.C. Johnson, & Son, Inc.

Chemical. (G) Acrylic copolymers and salts thereof; styrene/acrylic copolymers and salts thereof.

Use/Production. (G) Aqueous emulsion copolymer. Prod. range: Confidential.

P 90-1119

Manufacturer. S.C. Johnson, & Son, Inc.

Chemical. (G) Acrylic copolymers and salts thereof; styrene/acrylic copolymers and salts thereof.

Use/Production. (G) Aqueous emulsion copolymer. Prod. range: Confidential.

P 90-1173

Manufacturer. S.C. Johnson, & Son, Inc.

Chemical. (G) Acrylic copolymers and salts thereof; styrene/acrylic copolymers and salts thereof.

Use/Production. (G) Aqueous emulsion copolymer. Prod. range: Confidential.

P 90-1178

Manufacturer. S.C. Johnson, & Son, Inc.

Chemical. (G) Acrylic copolymers and salts thereof; styrene/acrylic copolymers and salts thereof.

Use/Production. (G) Aqueous emulsion copolymer. Prod. range: Confidential.

P 90-1177

Manufacturer. S.C. Johnson, & Son, Inc.

Chemical. (G) Acrylic copolymers and salts thereof; styrene/acrylic copolymers and salts thereof.

Use/Production. (G) Aqueous emulsion copolymer. Prod. range: Confidential.

P 90-1178

Manufacturer. S.C. Johnson, & Son, Inc.

Chemical. (G) Acrylic copolymers and salts thereof; styrene/acrylic copolymers and salts thereof.

Use/Production. (G) Aqueous emulsion copolymer. Prod. range: Confidential.

P 90-1181

Manufacturer. S.C. Johnson, & Son, Inc.

Chemical. (G) Acrylic copolymers and salts thereof; styrene/acrylic copolymers and salts thereof.

Use/Production. (G) Aqueous emulsion copolymer. Prod. range: Confidential.

P 90-1183

Manufacturer. S.C. Johnson, & Son, Inc.

Chemical. (G) Acrylic copolymers and salts thereof; styrene/acrylic copolymers and salts thereof.

Use/Production. (G) Aqueous emulsion copolymer. Prod. range: Confidential.

P 90-1184

Manufacturer. S.C. Johnson, & Son, Inc.

Chemical. (G) Acrylic copolymers and salts thereof; styrene/acrylic copolymers and salts thereof.

Use/Production. (G) Aqueous emulsion copolymer. Prod. range: Confidential.

P 90-1185

Manufacturer. S.C. Johnson, & Son, Inc.

Chemical. (G) Acrylic copolymers and salts thereof; styrene/acrylic copolymers and salts thereof.

Use/Production. (G) Aqueous emulsion copolymer. Prod. range: Confidential.

P 90-1186

Manufacturer. S.C. Johnson, & Son, Inc.

Chemical. (G) Acrylic copolymers and salts thereof; styrene/acrylic copolymers and salts thereof.

Use/Production. (G) Aqueous emulsion copolymer. Prod. range: Confidential.

P 90-1191

Manufacturer. S.C. Johnson, & Son, Inc.

Chemical. (G) Acrylic copolymers and salts thereof; styrene/acrylic copolymers and salts thereof.

Use/Production. (G) Aqueous emulsion copolymer. Prod. range: Confidential.

P 90-1192

Manufacturer. S.C. Johnson, & Son, Inc.

Chemical. (G) Acrylic copolymers and salts thereof; styrene/acrylic copolymers and salts thereof.

Use/Production. (G) Aqueous emulsion copolymer. Prod. range: Confidential.

P 90-1193

Manufacturer. S.C. Johnson, & Son, Inc.

Chemical. (G) Acrylic copolymers and salts thereof; styrene/acrylic copolymers and salts thereof.

Use/Production. (G) Aqueous emulsion copolymer. Prod. range: Confidential.

P 90-1194

Manufacturer. S.C. Johnson, & Son, Inc.

Chemical. (G) Acrylic copolymers and salts thereof; styrene/acrylic copolymers and salts thereof.

Use/Production. (G) Aqueous emulsion copolymer. Prod. range: Confidential.

P 90-1195

Manufacturer. S.C. Johnson, & Son, Inc.

Chemical. (G) Acrylic copolymers and salts thereof; styrene/acrylic copolymers and salts thereof.

Use/Production. (G) Aqueous emulsion copolymer. Prod. range: Confidential.

P 90-1196

Manufacturer. S.C. Johnson, & Son, Inc.

Chemical. (G) Acrylic copolymers and salts thereof; styrene/acrylic copolymers and salts thereof.

Use/Production. (G) Aqueous emulsion copolymer. Prod. range: Confidential.

Use/Production. (G) Aqueous emulsion copolymer. Prod. range: Confidential

P 90-1260

Manufacturer. S.C. Johnson, & Son, Inc.

Chemical. (G) Acrylic copolymers and salts thereof; styrene/acrylic copolymers and salts thereof.

Use/Production. (G) Aqueous emulsion copolymer. Prod. range: Confidential.

P 90-1261

Manufacturer. S.C. Johnson, & Son, Inc.

Chemical. (G) Acrylic copolymers and salts thereof; styrene/acrylic copolymers and salts thereof.

Use/Production. (G) Aqueous emulsion copolymer. Prod. range: Confidential.

P 90-1262

Manufacturer. S.C. Johnson, & Son, Inc.

Chemical. (G) Acrylic copolymers and salts thereof; styrene/acrylic copolymers and salts thereof.

Use/Production. (G) Aqueous emulsion copolymer. Prod. range: Confidential.

P 90-1263

Manufacturer. S.C. Johnson, & Son, Inc.

Chemical. (G) Acrylic copolymers and salts thereof; styrene/acrylic copolymers and salts thereof.

Use/Production. (G) Aqueous emulsion copolymer. Prod. range: Confidential.

P 90-1264

Manufacturer. S.C. Johnson, & Son, Inc.

Chemical. (G) Acrylic copolymers and salts thereof; styrene/acrylic copolymers and salts thereof.

Use/Production. (G) Aqueous emulsion copolymer. Prod. range: Confidential.

P 90-1265

Manufacturer. S.C. Johnson, & Son, Inc.

Chemical. (G) Acrylic copolymers and salts thereof; styrene/acrylic copolymers and salts thereof.

Use/Production. (G) Aqueous emulsion copolymer. Prod. range: Confidential.

P 90-1266

Manufacturer. S.C. Johnson, & Son, Inc.

Chemical. (G) Acrylic copolymers and salts thereof; styrene/acrylic copolymers and salts thereof.

Use/Production. (G) Aqueous emulsion copolymer. Prod. range: Confidential.

P 90-1267

Manufacturer. S.C. Johnson, & Son, Inc.

Chemical. (G) Acrylic copolymers and salts thereof; styrene/acrylic copolymers and salts thereof.

Use/Production. (G) Aqueous emulsion copolymer. Prod. range: Confidential.

P 90-1268

Manufacturer. S.C. Johnson, & Son, Inc.

Chemical. (G) Acrylic copolymers and salts thereof; styrene/acrylic copolymers and salts thereof.

Use/Production. (G) Aqueous emulsion copolymer. Prod. range: Confidential.

P 90-1269

Manufacturer. S.C. Johnson, & Son, Inc.

Chemical. (G) Acrylic copolymers and salts thereof; styrene/acrylic copolymers and salts thereof.

Use/Production. (G) Aqueous emulsion copolymer. Prod. range: Confidential.

P 90-1270

Manufacturer. S.C. Johnson, & Son, Inc.

Chemical. (G) Acrylic copolymers and salts thereof; styrene/acrylic copolymers and salts thereof.

Use/Production. (G) Aqueous emulsion copolymer. Prod. range: Confidential.

P 90-1271

Manufacturer. Dearborn Division, W.R. Grace & Co.

Chemical. (G) Mixture of *N*-substituted (((2-hydroxyethyl) imino)bis(methylene))-bis-phosphonic acid and *N*-substituted ((tetrahydro-2-hydroxy) 4*H*-1,4,2-oxazaphosphorin-4-yl)-methylphosphonic acid, *P*-oxide.

Use/Production. (S) Water treatment compound. Prod. range: 3,630-5,000 kg/yr.

Toxicity Data. Acute oral toxicity: LD50 5.00 mg/kg species (Rat). Static acute toxicity: time LC50 48H 7.04 mg/l species (Daphnia magna). Mutagenicity: negative.

P 90-1272

Manufacturer. Olin Corporation.
Chemical. (G) Polycarboxylated surfactant.

Use/Production. (S) Surfactant - general industrial cleaning, household cleaning, and household laundry. Prod. range: Confidential.

P 90-1273

Importer. Tosch USA, Inc.

Chemical. (G) Polymethacrylate derivative with tetraethyleneglycol.

Use/Import. (S) Packings for liquid chromatography. Import range: Confidential.

P 90-1274

Importer. Tosch USA, Inc.

Chemical. (G) Polymethacrylate derivative with octadecyl group.

Use/Import. (S) Packings for liquid chromatography. Import range: Confidential.

P 90-1275

Importer. Tosch USA, Inc.

Chemical. (G) Polymethacrylate derivative with phenyl group.

Use/Import. (S) Packings for liquid chromatography. Import range: Confidential.

P 90-1276

Manufacturer. Bedoukian Research, Inc.

Chemical. (G) Alkyl vinyl carbinol.

Use/Production. (S) Chemical intermediate. Prod. range: Confidential.

P 90-1277

Importer. Basf Corporation.

Chemical. (G) Disubstituted aliphatic-terminated silicone.

Use/Import. (G) Leather auxiliary. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 2,000 mg/kg species (Rat). Static acute toxicity: time LC50 96H > 10,000 mg/l species (Golden orfe). Eye irritation: none species (Rabbit). Skin irritation: negligible species (Rabbit). Mutagenicity: negative.

P 90-1278

Manufacturer. Confidential.

Chemical. (G) Water dispersible polyurethane.

Use/Production. (S) Glass fiber sizing for use in fiberglass reinforced thermoplastics. Prod. range: Confidential.

P 90-1279

Manufacturer. Confidential.

Chemical. (G) Alkyl ester.

Use/Production. (G) Base stock. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 5 g/kg species (Rat). Acute dermal toxicity: LD50 > 2 g/kg species (Rabbit). Eye irritation: none species (Rabbit). Mutagenicity: negative. Skin irritation: negligible species (Rabbit).

P 90-1280

Importer. Tokuyama America Inc.

Chemical. (S) 2,2-Bis(4-(2-allyloxycarbonyloxy)ethoxy)-3,5-dibromophenyl) propane.

Use/Import. (G) Plastic additive. Import range: 8,000-18,000 kg/yr.
Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (Rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (Rabbit). Eye irritation: slight species (Rabbit). Skin irritation: negligible species (Rabbit).
Mutagenicity: negative.

P 90-1281

Importer. Sumitomo Corporation of America.
Chemical. (G) Vinyl chloride copolymer.
Use/Import. (G) Binder resin. Import range: Confidential.
Toxicity Data. *Mutagenicity:* negative.

P 90-1282

Importer. Confidential.
Chemical. (G) Aryl substituted copper phthalocyanine.
Use/Import. (G) Info-red absorber. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 2,000 mg/kg. Eye irritation: slight species (Rabbit). Skin irritation: moderate species (Rabbit).
Mutagenicity: positive.

P 90-1283

Importer. Confidential.
Chemical. (G) Zinc ammine complex.
Use/Import. (S) Cross linking agent. Import range: Confidential.

P 90-1284

Manufacturer. Finetex, Inc.
Chemical. (G) Inorganic alkali salts of alkyl phosphate esters.
Use/Production. (S) Textile finishing agent. Prod. range: 5,000-15,000 kg/yr.
Toxicity Data. Acute oral toxicity: LD50 > 5 g/kg species (Rat). Eye irritation: none species (Rabbit). Skin irritation: negligible species (Rabbit).

P 90-1285

Importer. DIC Trading (USA), Inc.
Chemical. (S) 2-Propenoic acid, octahydro-4, 7-methano-1H-indenyl ester.
Use/Import. (G) UV curable component for coating. Import range: Confidential.

P 90-1286

Manufacturer. Stepan Company.
Chemical. (G) Amidocarboxy benzoate.
Use/Production. (S) Substance will be used as emulsifiers in manufacture of paint, paper, and textile products. Prod. range: Confidential.

P 90-1287

Manufacturer. Stepan Company.
Chemical. (G) Amidocarboxy benzoate.

Use/Production. (G) Substances will be used as emulsifier in manufacture of paint, paper and textile products. Prod. range: Confidential.

P 90-1288

Manufacturer. Confidential.
Chemical. (G) Modified acrylic polymer.
Use/Production. (G) Dispersive use. Prod. range: Confidential.

P 90-1289

Manufacturer. Confidential.
Chemical. (S) 2-Nitro-4-methoxyphenyl-1-(2 naphthonyl-3 benzo toluidide) azo.
Use/Production. (G) Open nondispersive use. Prod. range: Confidential.

P 90-1290

Manufacturer. Confidential.
Chemical. (G) Calcium or strontium salt of the azo dye.
Use/Production. (G) Open nondispersive use. Prod. range: Confidential.

P 90-1291

Manufacturer. Brewer Science Inc.
Chemical. (G) Aromatic polyamic acid.
Use/Production. (S) Polyimide coating for use in electronic optoelectronic devices and associated packing. Prod. range: Confidential.

P 90-1292

Manufacturer. Confidential.
Chemical. (S) Poly (oxy-1-methyl-1,3-ethanediyl) poly (oxy-ethanediyl) alpha-(4-aminobenzoyl)-omega-((4-aminobenzoyl)oxy)-.
Use/Production. (G) Destructive use. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 5 g/kg species (Rat). Eye irritation: moderate species (Rabbit). Skin irritation: negligible species (Rabbit).
Mutagenicity: negative.

P 90-1294

Manufacturer. The Dow Chemical Company.
Chemical. (G) Branched polycarbonate.
Use/Production. (S) Sheet extrusion windows and panels profile. Prod. range: Confidential.

P 90-1295

Manufacturer. The Dow Chemical Company.
Chemical. (G) Branched polycarbonate.
Use/Production. (S) Sheet extrusion: windows and panels. Prod. range: Confidential.

P 90-1296

Manufacturer. The Dow Chemical Company.
Chemical. (G) Branched polycarbonate.
Use/Production. (S) Sheet extrusion: windows and panels. Prod. range: Confidential.

P 90-1297

Manufacturer. The Dow Chemical Company.
Chemical. (G) Branched polycarbonate.
Use/Production. (S) Sheet extrusion: windows and panels. Prod. range: Confidential.

P 90-1298

Manufacturer. The Dow Chemical Company.
Chemical. (G) Branched polycarbonate.
Use/Production. (S) Sheet extrusion: windows and panels. Prod. range: Confidential.

P 90-1299

Manufacturer. The Dow Chemical Company.
Chemical. (G) Branched polycarbonate.
Use/Production. (S) Sheet extrusion: windows and panels. Prod. range: Confidential.

P 90-1300

Manufacturer. The Dow Chemical Company.
Chemical. (G) Branched polycarbonate.
Use/Production. (S) Sheet extrusion: windows and panels. Prod. range: Confidential.

P 90-1301

Manufacturer. The Dow Chemical Company.
Chemical. (G) Branched polycarbonate.
Use/Production. (S) Sheet extrusion: windows and panels. Prod. range: Confidential.

P 90-1302

Manufacturer. The Dow Chemical Company.
Chemical. (G) Branched polycarbonate.
Use/Production. (S) Sheet extrusion/flow molding. Prod. range: Confidential.

P 90-1303

Manufacturer. The Dow Chemical Company.
Chemical. (G) Branched polycarbonate.
Use/Production. (S) Sheet extrusion/flow molding. Prod. range: Confidential.

P 90-1304

Importer. Confidential.

Chemical. (S) Sodium hydroxide; 2-propenoic acid, 2-methyl-; polymer with butyl 2-propenoic and methyl 2-methyl-2-propenoate.

Use/Import. (G) Component in water based emulsion. Import range: Confidential.

P 90-1305

Manufacturer. Confidential.

Chemical. (G) Olefin copolymer.

Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

P 90-1306

Manufacturer. Confidential.

Chemical. (G) Brominated olefin polymer.

Use/Production. (G) Tire production component/chemical intermediate. Prod. range: Confidential.

P 90-1307

Manufacturer. Brewer Science Inc.

Chemical. (G) Aromatic polyamic acid.

Use/Production. (S) Polyimide coating. Prod. range: Confidential.

P 90-1308

Importer. Confidential.

Chemical. (G) Dimetridazole.

Use/Import. (G) Cutting fluid-stabilizer. Import range: Confidential.

P 90-1309

Manufacturer. E.I. Du Pont de Nemours & Co. Inc.

Chemical. (G) Styrene/hydroxy acrylic polymer ammonium.

Use/Production. (G) Open, nondispersive use. Prod. range: Confidential.

P 90-1310

Manufacturer. E.I. Du Pont de Nemours & Co. Inc.

Chemical. (G) Imidazoline amine-epoxy adduct.

Use/Production. (G) Open, nondispersive use. Prod. range: Confidential.

P 90-1311

Manufacturer. E.I. Du Pont de Nemours & Co. Inc.

Chemical. (G) Salt of imidazoline amine/epoxy adduct.

Use/Production. (G) Open, nondispersive use. Prod. range: Confidential.

P 90-1312

Manufacturer. Confidential.

Chemical. (G) Rosin ester.

Use/Production. (S) Tackifier for adhesives. Prod. range: Confidential.

P 90-1313

Importer. Triangle Associates.

Chemical. (G) Tire grip adhesive.

Use/Import. (S) Tire grip adhesive. Import range: 100,000 kg/yr.

P 90-1314

Manufacturer. Exxon Chemical Company.

Chemical. (G) Sodium salt of sulfonated rubber.

Use/Production. (S) Viscosifier for oil-based drilling fluids. Prod. range: Confidential.

Toxicity Data. Skin irritation: negligible species (Rabbit).

P 90-1315

Manufacturer. Steadfast, Inc.

Chemical. (G) Xanthene dye.

Use/Production. (G) Coating. Prod. range: Confidential.

P 90-1316

Manufacturer. Confidential.

Chemical. (G) Phenoxy modified epoxy resin.

Use/Production. (G) Open, nondispersive use. Prod. range: 34,000-103,000 kg/yr.

P 90-1317

Manufacturer. Chemco, Inc.

Chemical. (G) Amino resin.

Use/Production. (S) Flame retardant. Prod. range: Confidential.

P 90-1318

Manufacturer. Confidential.

Chemical. (G) Amine salts of dicarboxylic acid.

Use/Production. (S) Lubricant and corrosion inhibitor. Prod. range: Confidential.

P 90-1319

Manufacturer. Confidential.

Chemical. (G) Amine salts of dicarboxylic acid.

Use/Production. (S) Lubricant and corrosion inhibitor. Prod. range: Confidential.

P 90-1320

Manufacturer. Confidential.

Chemical. (G) Amine salts of carboxylic acid.

Use/Production. (S) Lubricant and corrosion inhibitor. Prod. range: Confidential.

P 90-1321

Manufacturer. Confidential.

Chemical. (G) Potassium salts of dicarboxylic acid.

Use/Production. (S) Lubricant and corrosion inhibitor. Prod. range: Confidential.

P 90-1322

Manufacturer. Confidential.

Chemical. (G) Amine salts of carboxylic acid.

Use/Production. (S) Lubricant and corrosion inhibitor. Prod. range: Confidential.

P 90-1323

Manufacturer. Confidential.

Chemical. (G) Substituted alkylsilylurea.

Use/Production. (G) A formulation component for open, nondispersive use. Prod. range: Confidential.

P 90-1324

Importer. Confidential.

Chemical. (G) Urethane modified tall oil fatty acid alkyl.

Use/Import. (G) Component of paint formulations. Import range: Confidential.

P 90-1325

Importer. Confidential.

Chemical. (G) Inorganic aluminum complex.

Use/Import. (G) Surface coating additive (open, nondispersive use). Import range: Confidential.

P 90-1326

Importer. Reichhold Chemicals, Inc.

Chemical. (G) Water dispersible polyurethane.

Use/Import. (S) Glass fiber sizing for use in fiber glass reinforced thermoplastic. Import range: Confidential.

P 90-1327

Manufacturer. Confidential.

Chemical. (S) [3,3'-Bianthra[1,9-cd]pyrazole]-6,6'-(2H,2'H)-dione, potassium salt.

Use/Production. (S) Intermediate for manufacture of vat dye. Prod. range: Confidential.

P 90-1329

Manufacturer. Confidential.

Chemical. (G) Starch graft copolymer latex.

Use/Production. (G) Adhesive binder for paper coatings. Prod. range: Confidential.

P 90-1330

Importer. Basf Corporation.

Chemical. (G) Black polymer of alkane diacid with alkane diamines, polysubstituted cycloalkanes and alkanes diols.

Use/Import. (S) Leather finishing. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 2,200 mg/kg species (Rat). Eye irritation: slight species (Rabbit). Skin irritation: slight species (Rabbit). Mutagenicity: negative.

P 90-1331

Importer: Hoechst Celanese Corporation.

Chemical: (G) Modified epoxy resin.
Use/Import: (S) Resin for powder coating (metal furniture and applications). Import range: 30,000-75,000 kg/yr.

P 90-1332

Manufacturer: Confidential.

Chemical: (G) Alkyl acid phosphate alkyl amine salt.

Use/Production: (G) Industrial and automotive additives. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 2 g/kg species (Rat). Acute dermal toxicity: LD50 > 2 g/kg species (Rabbit). Eye irritation: strong species (Rabbit). Skin irritation: strong species (Rabbit).

P 90-1333

Manufacturer: Confidential.

Chemical: (G) Substituted alkylsilylurea.

Use/Production: (G) A formulation component for open, nondispersive use. Prod. range: Confidential.

P 90-1334

Manufacturer: Confidential.

Chemical: (G) Substituted borinic acid ester.

Use/Production: (G) Destructive use. Prod. range: Confidential.

P 90-1335

Manufacturer: Reichhold Chemicals, Inc.

Chemical: (G) Crosslinkable butadiene-styrene polymer.

Use/Production: (S) Nonwoven binder. Prod. range: Confidential.

P 90-1336

Importer: MTC America, Inc.

Chemical: (G) Modified epoxy resin.

Use/Import: (S) Anticorrosion primer coating. Import range: Confidential.

P 90-1337

Importer: MTC America, Inc.

Chemical: (G) Poly urethane resin.

Use/Import: (S) UV curing coatings. Import range: Confidential.

P 90-1338

Manufacturer: Confidential.

Chemical: (G) Monofunctional isocyanate.

Use/Production: (G) Destructive use as an intermediate. Prod. range: 1,240-82,550 kg/yr.

P 90-1339

Manufacturer: Confidential.

Chemical: (G) Amine functional polyurethane polyol.

Use/Production: (G) Nondispersive coating formulated. Prod. range: 9,250-320,000 kg/yr.

Toxicity Data. Acute oral toxicity: LD50 > 2 g/kg species (Rat). Acute dermal toxicity: LD50 > 2 g/kg species (Rabbit). Eye irritation: strong. Skin irritation: strong.

P 90-1340

Manufacturer: Confidential.

Chemical: (G) Amine functional polyurethane polyol.

Use/Production: (G) Nondispersive coating formulation. Prod. range: 9,200-320,000 kg/yr.

P 90-1341

Manufacturer: Confidential.

Chemical: (G) Amine functional polyurethane polyol.

Use/Production: (G) Nondispersive coating formulation. Prod. range: 9,250-320,000 kg/yr.

P 90-1342

Manufacturer: Confidential.

Chemical: (G) Amine functional polyurethane polyol.

Use/Production: (G) Nondispersive coating formulation. Prod. range: 9,250-320,000 kg/yr.

P 90-1343

Manufacturer: Confidential.

Chemical: (G) Amine functional polyurethane polyol.

Use/Production: (G) Nondispersive coating formulation. Prod. range: 9,259-320,000 kg/yr.

Dated: June 25, 1990.

Steven Newburg-Rinn,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 90-15201 Filed 6-28-90; 8:45 am]

BILLING CODE 6560-50-D

[OPTS-51734B; FRL 3773-7]

Certain Chemical; Premanufacture Notice; Termination of Review Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is revoking, effective June 18, 1990, the remaining portion of a 90 day extension of the review period for premanufacture notice (PMN) P 89-711, under the authority of section 5(c) of the Toxic Substances Control Act (TSCA). This action follows the signing of a Consent Order for the new chemical substance subject to premanufacture notice (PMN) P-89-711.

FOR FURTHER INFORMATION CONTACT: Heidi A. Siegelbaum, New Chemicals

Branch, Chemical Control Division (TS-794), Environmental Protection Agency, Room E-611, 401 M Street, SW., Washington, DC 20460, (202) 475-8262.

SUPPLEMENTARY INFORMATION: The original review period for P 89-711 was scheduled to expire on February 10, 1990. EPA published a section 5(c) extension notice for the PMN in the Federal Register of February 15, 1990 (55 FR 5502), to provide the Agency with sufficient time to issue an order under section 5(e). The Order would have prohibited the Company from importing or domestically manufacturing the PMN substance pending the submission and evaluation of test data addressing the potential risk injury to the environment.

The review period, including the extension under section 5(c), is scheduled to expire July 10, 1990. After the 5(c) extension was published, the Company suspended the notice review period and submitted more information. In light of this new information, EPA and the Company agreed to enter into a Consent Order.

Therefore, EPA is revoking the remaining portion of the extended review, effective immediately.

Dated: June 25, 1990.

Lawrence E. Culleen,

Acting Director, Chemical Control Division, Office of Toxic Substances.

[FR Doc. 90-15198 Filed 6-28-90; 8:45 am]

BILLING CODE 6560-50-D

[FRL: 3792-5]

Public Water System Supervision Program Revision for the Commonwealth of Pennsylvania

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

Public notice is hereby given in accordance with the provisions of section 1413 of the Safe Drinking Water Act as amended, 42 U.S.C. 300f et seq., and 40 CFR 142.10, the National Primary Drinking Water Regulations, that the Commonwealth of Pennsylvania is revising its approved Public Water System Supervision (PWSS) Primacy Program. Pennsylvania has adopted drinking water regulations for eight volatile organic chemicals that correspond to the National Primary Drinking Water Regulations for eight volatile organic chemicals promulgated by EPA on July 8, 1987 (52 FR 25690), and corrected on July 1, 1988 (53 FR 25108). Edwin B. Erickson, Regional Administrator for EPA Region III, has determined that these program revisions

are no less stringent than the corresponding federal regulations and has approved these program revisions. This determination shall become effective on July 30, 1990, and was based upon a thorough evaluation of Pennsylvania's PWSS program which has met the requirements stated in 40 CFR 142.10.

Pennsylvania's PWSS program, as presented in its revision package dated May 9, 1989 and evaluated, has indicated that it is fully capable of carrying out all of the areas required to achieve primary enforcement capability.

Any interested parties are invited to submit written comments on this determination, and may request a public hearing on or before July 30, 1990. If a public hearing is requested and granted, this determination shall not become effective until such time following the hearing that the Regional Administrator issues an order affirming or rescinding this action.

Requests for a public hearing should be addressed to: Edwin B. Erickson, Regional Administrator, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107.

Frivolous or insubstantial requests for a hearing may be denied by the Regional Administrator. However, if a substantial request is made within thirty (30) days after this notice, a public hearing will be held.

Any request for a public hearing shall include the following: (1) The name, address, and telephone number of the individual, organization, or other entity requesting a hearing, (2) a brief statement of the requesting person's interest in the Regional Administrator's determination and of information that the requesting person intends to submit at such hearing, and (3) the signature of the individual making the requests, or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

Notice of any hearing shall be given not less than fifteen (15) days prior to the time scheduled for the hearing. Such notice will be made by the Regional Administrator in the *Federal Register* and in newspapers of general circulation in the Commonwealth of Pennsylvania. A notice will also be sent to the person(s) requesting the hearing as well as to the Commonwealth of Pennsylvania. The hearing notice will include a statement of purpose, information regarding time and location, and the address and telephone number where interested persons may obtain further information. The Regional Administrator will issue an order

affirming or rescinding his determination upon review of the hearing record. Should the determination be affirmed, it will become effective as of the date of the order.

Should no timely and appropriate request for a hearing be received, and the Regional Administrator does not elect to hold a hearing on his own motion, this determination shall become effective on July 30, 1990.

Please bring this notice to the attention of any persons known by you to have an interest in this determination.

All documents relating to this determination are available for inspection between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, at the office of the Regional Administrator and at the following location in Pennsylvania: Department of Environmental Resources, Division of Water Supplies, Executive House, room 518, 101 South Second Street, Harrisburg, PA 17120.

FOR FURTHER INFORMATION CONTACT: Patti Kay Wisniewski, EPA Region III, Drinking Water Section (3WM41) at the Philadelphia address given above, telephone (215) 597-9032, (FTS) 597-9032.

Dated: June 19, 1990.

Edwin B. Erickson,

Regional Administrator, EPA, Region III.

[FR Doc. 90-15212 Filed 6-29-90; 8:45 am]

BILLING CODE 3792-05-M

FEDERAL COMMUNICATIONS COMMISSION

Audrey R. Morris, et al.; FM Station Applications

1. The Commission has before it the following mutually exclusive applications for two new FM stations:

I.

Applicant, city and state	File No.	MM docket No.
A. Audrey R. Morris, Pawley's Island, SC.	BPH-880630ME	90-302
B. Fogel Broadcast Limited Partnership, Pawley's Island, SC.	BPH-880630MN	
C. Frank L. Baker & William L. McElveen d/b/a/ Pawley's Island Broadcasting General Partnership, Pawley's Island, SC.	BPH-880630MY	
D. Robert R. Hilker, Pawley's Island, SC.	BPH-880630NA	

Applicant, city and state	File No.	MM docket No.
E. MGR Limited Partnership, Pawley's Island, SC.	BPH-880630NO	
F. Carolina Communications V Limited Partnership, Pawley's Island, SC.	BPH-880630NU	
G. Pawley's Island Communications, Inc., Pawley's Island, SC.	BPH-880630OB	

Issue Heading and Applicants

1. Comparative, A-C
2. Ultimate, A-G

II.

Applicant, city and state	File No.	MM docket No.
A. Woody Limited Partnership, Petersburg, VA.	BPH-880630MM	90-305
B. Sandra M. Adair Vaughan, Petersburg, VA.	BPH-880630MQ	
C. Walsh & Partners Communications, Inc., Petersburg, VA.	BPH-880630NT	
D. Petersburg FM Broadcasters Limited Partnership, Petersburg, VA.	BPH-880630NX	
E. Sladeco Broadcasting Limited Partnership, a Virginia Limited Partnership, Petersburg, VA.	BPH-880630OC	

Issue Heading and Applicants

1. See Appendix, C
2. See Appendix, C
3. See Appendix, C
4. Comparative, A-E
5. Ultimate, A-E

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

3. If there are any non-standardized issues in this proceeding, the full text of the issue and the applicants to which it applies are set forth in an appendix to this Notice. A copy of the complete HDO in this proceeding is available for

inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037. (Telephone (202) 857-3800).
W. Jan Gay,
Assistant Chief Audio Services Division Mass Media Bureau.

Appendix (Petersburg, Virginia)

1. To determine whether Sonrise Management Services, Inc., is an undisclosed party to the application of C (Walsh).
2. To determine whether C's (Walsh's) organizational structure is a sham.
3. To determine, from the evidence adduced pursuant to Issues 1 and 2 above, whether C (Walsh) possesses the basic qualifications to be a licensee of the facilities sought herein.

[FR Doc. 90-15214 Filed 6-28-90; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Recourse Arrangements

AGENCY: Federal Financial Institutions Examination Council.

ACTION: Request for comment.

SUMMARY: The five member agencies of the Federal Financial Institutions Examination Council (the "FFIEC"), which include the Board of Governors of the Federal Reserve System ("FRB"), the Federal Deposit Insurance Corporation ("FDIC"), the National Credit Union Administration ("NCUA"), the Office of the Comptroller of the Currency ("OCC"), and the Office of Thrift Supervision ("OTS") (collectively, the "Agencies"), are considering issuing regulations or Guidelines to address the regulatory capital treatment of recourse arrangements for depository institutions and bank holding companies. The Agencies are also considering revising the regulatory reporting requirements applicable to asset transfers with recourse and revising the lending limit treatment of recourse arrangements for national banks and savings associations. The Agencies plan to work together to develop common definitions and treatments of recourse arrangements, where appropriate.

"Recourse" refers to a financial institution's acceptance, assumption or retention of some or all of the risk of loss generally associated with ownership of an asset, whether or not the institution owns or has ever owned the asset. As the primary federal

supervisors of insured financial institutions and bank holding companies, the Agencies have observed that recourse arrangements are occurring with increasing frequency, particularly in the context of asset securitization programs. The Agencies recognize that recourse arrangements impose risks on financial institutions and believe it appropriate to report the existence of these risks and to include these risks when evaluating capital adequacy.

The federal bank supervisory agencies (the FRB, the FDIC, and the OCC) and the NCUA have not previously provided a comprehensive regulatory definition of "recourse". The OTS, the federal supervisor of savings associations, has a definition of the term "with recourse" which it plans to amend through rulemaking action. See 12 CFR 561.55. In the interest of a uniform treatment, the Agencies are soliciting public comment on the definition of "recourse," and the appropriate reporting and capital treatments to be applied to recourse arrangements. Public comment is also requested on how these arrangements should be treated under the lending limits applicable to banks and savings associations. The Agencies are targeting December 31, 1990, as the date by which resulting changes in the regulatory treatment of recourse arrangements would become effective.

DATES: Comments must be received by August 28, 1990.

ADDRESSES: Comments should be directed to: Robert J. Lawrence, Executive Secretary, Federal Financial Institutions Examination Council, 1776 G Street, NW., Suite 850B, Washington DC 20006. Comments will be available for public inspection and photocopying at the same location.

FOR FURTHER INFORMATION CONTACT: At the FRB: Roger H. Pugh, Manager, Policy Development, Division of Banking Supervision and Regulation (202) 728-5883; Thomas R. Boemio, Senior Financial Analyst, Division of Banking Supervision and Regulation (202) 452-2982. At the FDIC: Robert F. Storch, Chief, Accounting Section, Division of Supervision (202) 898-8906. At the NCUA: Alonzo Swann, Director, Department of Operations, Office of Examination and Insurance, (202) 682-9640. At the OCC: Owen Carney, (202) 447-1901; Richard Cleva, Senior Attorney, Legal Advisory Services Division (202) 447-1883; or Laura H. Plaze, Senior Attorney, Legal Advisory Services Division (202) 447-1883. At the OTS: Robert Fishman, Senior Project Manager (202) 906-5672; Carol Wambecke, Financial Economist (202)

906-6758; Deborah Dakin, Regulatory Counsel (202) 906-6445.

SUPPLEMENTARY INFORMATION:

Introduction

In its broadest terms, "recourse" refers to the acceptance, assumption or retention of some or all of the risk of loss generally associated with ownership of an asset. Recourse is not necessarily a function of ownership or prior ownership of an asset, nor does it arise only as an incident of an asset sale. Moreover, recourse may arise even without a contractual obligation.

For many financial institutions, recourse is most frequently associated with asset sales, and particularly with asset securitization programs. Loans, receivables or other assets are securitized by first combining similar assets in a pool and then selling to investors either securities that represent ownership interest in the pool or debt obligations that are serviced by the cash flow from the pool. Asset securitization has become increasingly popular, as in some cases it has enabled financial institutions and bank holding companies to remove assets, or portions of assets, from their books. Asset securitization may allow a financial institution to reduce the capital necessary to meet regulatory minimums or to reduce the total amount of outstanding loans to an individual borrower. Further, asset securitization can provide a financial institution a source of funds through the sale of its assets, which enables the institution to increase its liquidity. Asset securitization may also provide an additional source of continuing income to a financial institution that acts as servicer of a pool of securitized assets.

Early securitized programs, dating from the 1970's, were usually federally sponsored, and were generally intended to enhance the secondary residential mortgage market. Three federally-sponsored agencies, the Governmental National Mortgage Association ("GNMA"), the Federal National Mortgage Association ("FNMA"), and the Federal Home Loan Mortgage Corporation ("FHLMC"), were each provided statutory authority to guarantee the payment of principal and interest to investors in pools of qualifying residential mortgages. Generally, the Federal government may bear some of the risk of loss in these agency asset securitization programs, by providing federal insurance for certain of the underlying mortgages and through the GNMA guarantee, which is backed by the full faith and credit of the United States.

While the sale of loan participations has been a longstanding bank practice, during the 1980's, financial institutions began to securitize and sell an increasing variety of loan portfolios and other assets to a wider group of public investors. These asset securitizations differ from the Federally-sponsored agency programs in that they are not necessarily backed by Federal insurance or Federal guarantees. In order to market these securitized assets to investors, who demand a stable, predictably performing investment product, some financial institutions have provided assurances against virtually all risk or loss.

The Agencies have observed an increasing use and variety of recourse arrangements in asset securitization programs. Some financial institutions have provided assurances against risks of loss that extend beyond credit risk to include losses due to interest rate and prepayment risk, foreign exchange risk, liquidity and marketability risks, and risks associated with statutory or regulatory compliance or uninsurable hazards. The Agencies have also observed that some financial institutions have assumed risks of loss implicitly, without entering into explicit contractual recourse agreements.

The Agencies believe, and have previously stated their belief, that quantifiable risks to a financial institution should be supported by capital. See, e.g., OCC Final Rule Establishing Risk-Based Capital Guidelines, 54 FR 4168 (January 27, 1989) (codified at appendix A to 12 CFR part 3); FRB Final Rule Establishing Risk-Based Capital Guidelines, 54 FR 4186 (January 27, 1989) (codified at 12 CFR 208.13, appendix A to 12 CFR part 208, and appendix A to 12 CFR part 225); FDIC Final Policy Statement Establishing Risk-Based Capital Guidelines, 54 FR 11500 (March 21, 1989) (codified at appendix A to 12 CFR part 325); and OTS Final Rule or Risk-Based Capital, 54 FR 46845 (November 8, 1989) (codified at 12 CFR part 567) (collectively, the "risk-based capital standards"). While the risk-based capital standards in their current form focus primarily on credit risk, whether or not represented by an asset on the balance sheet, such standards embody the principle that all risks require capital support consistent with the degree to which they expose an institution to potential loss.¹ As recourse

arrangements expose a financial institution or bank holding company to the risk of loss generally, the Agencies believe that these arrangements should be supported by capital.

In addition, the Agencies believe that a financial institution's exposure to a particular borrower should be monitored and limited. This fundamental tenet of safety and soundness is a statutory requirement under Federal law for national banks and savings associations² and under state law for state-chartered banks. As certain recourse arrangements expose a national bank or savings association to the individual risks of an underlying borrower, the OCC and the OTS believe that these risks should be addressed in the calculation of loans outstanding to one borrower. The staffs of the FRB and the FDIC also believe that the state laws limiting loans outstanding from state-chartered banks to one borrower should address the risks posed by recourse arrangements.

While these positions are not new, the Agencies consider it timely and appropriate to examine the general issue of recourse arrangements and the regulatory treatments they should be accorded. The current reporting and capital treatments accorded recourse arrangements by the various agencies and the lending limit treatments applicable to recourse arrangements of national banks and savings associations are briefly summarized below. Following that discussion, the specific issues for comment are presented. Finally, all questions are listed in a summary section.

I. Current Reporting Treatment of Asset Transfers With Recourse

A. National Banks and Federally-Insured, State-Chartered Banks

National banks and federally-insured, state-chartered member and nonmember banks are required to file quarterly Reports of Condition and Income ("Call Reports"), reporting to the OCC, FRB and FDIC respectively. The FFIEC is responsible for developing the reporting rules. See 12 U.S.C. 3305.

renamed the Basle Committee on Banking Supervision). The international framework is described in a paper entitled the International Convergence of Capital Measurement and Capital Standards dated July 1988.

² See generally, 12 U.S.C. 84 (limiting the total loans and extensions of credit a national bank may have outstanding to one borrower at one time); 12 U.S.C. 1464(u), as added by the Financial Institutions Reform, Recovery and Enforcement Act of 1989, Pub. L. 101-73, 301, 103 Stat. 163 (August 9, 1989) ("FIRREA") (providing that the lending limits applicable to national banks under 12 U.S.C. 84 shall apply in the same manner and to the same extent to savings associations).

Under the current reporting rules, which are contained in the Instructions for Consolidated Reports of Condition and Income ("Call Report Instructions"), the reporting treatment of an asset transferred subject to a recourse arrangement varies depending on the type of asset sold, whether the transfer is through a federally-sponsored agency program, and, in some cases, on the level of the risk of loss retained. The reporting rules have the effect of allowing some asset transfers with recourse to be reported as sales, while requiring others to be reported as financing transactions with the assets retained on the balance sheet.

The Call Report Instructions include a Glossary of terms and instructions for various supporting schedules, including Schedule RC-L, "Off Balance Sheet Items."³ Together, the Glossary and Schedule RC-L establish four separate reporting treatments for asset transfers with recourse.

First, a general rule is provided for the transfer of most assets other than transfers involving the issuance of certificates of participation in pools of certain residential or agricultural mortgages. Under the general rule, an asset transfer may be reported as a sale only if two conditions are met: (1) The transferring bank must not retain any risk of loss from the asset transferred; and (2) the transferring bank must have no obligation to any party for the payment of principal or interest on the asset transferred. See Glossary, Call Report Instructions (entry for "Sales of Assets").

Next, two different rules are established for transfers involving the issuance of certificates of participation in pools of residential mortgages. See *id.*, "Participations in Pools of Residential Mortgages." If the participations are issued or guaranteed under specified GNMA, FNMA, or FHLMC programs, the Glossary states that a bank disposing of its mortgages through such programs may treat the transaction as a sale of the underlying mortgages. Banks report mortgage transfers through these government agency programs as sales even when the transfers are with 100% recourse. See *id.*, and Schedule RC-L, Item 9(a).⁴

³ Schedule RC-L was previously named "Commitments and Contingencies." Effective March 31, 1990, this schedule was renamed "Off-Balance Sheet Items."

⁴ Item 9 was numbered Memorandum Item 4 prior to the changes made to Schedule RC-L, effective March 31, 1990.

¹ The risk-based capital guidelines of the OCC, FRB and FDIC are based on the international framework for capital standards established in July 1988, by the Basle Committee on Banking Regulations and Supervisory Practices (since

A different treatment applies if the certificates of participation are privately issued by the bank. For these issuances, the bank's ability to treat the transfer of the underlying mortgages as a sale depends upon the level of risk it has retained. The Glossary provides that "[o]nly when the issuing bank does not retain any significant risk of loss, either directly or indirectly, is the transaction to be reported as a sale of the underlying mortgages by the bank." *Id.*⁵

Finally, Schedule RC-L establishes a fourth reporting treatment for an asset transfer with recourse that applies only to transfers of agricultural mortgage loans through a Farmer Mac certified program.⁶ The instructions to Item 9(c)(1) of Schedule RC-L state that transfers of agricultural mortgage loans under a Farmer Mac program in which the bank retains a subordinated participation interest (a form of recourse), may be "reported as sales for Call Report purposes to the same extent that the transactions are reported as sales under generally accepted accounting principles ['GAAP']." In general, this means that the transfer may be reported as a sale only if the bank surrenders control of the future economic benefits from the asset, can reasonably estimate its probable loss under the recourse provision, has no obligation to repurchase the asset except pursuant to the recourse provision, and establishes a liability account or specific reserve to absorb the estimated loss.⁷

B. Savings Associations

The regulatory reporting of savings associations is provided to OTS on the Thrift Financial Report ("TFR"), an OTS form. Unlike the bank supervisory agencies' Call Report, which establishes special supervisory rules for reporting transfers of four different types of assets with recourse, the TFR generally

requires savings associations to report these transactions in accordance with GAAP. In general, this means that a savings association may report an asset transfer with recourse as a sale only if the institution surrenders control of the future economic benefits from the asset, is able to reasonably estimate its probable loss under the recourse provision, has no obligation to repurchase the asset except pursuant to the recourse provision, and establishes a liability account or specific reserve to absorb the estimated loss.

II. Capital Treatment of Recourse Arrangements

A. Current Leverage ratio Requirements

Under the current leverage ratio capital requirements of the FRB, the FDIC, and the OCC, the treatment of an asset transferred with recourse is directly related to the reporting treatment of the transfer.⁸ Simply speaking, for national banks and federally-insured, state-chartered member and nonmember banks, if an asset transfer is reported as a sale, no capital support is explicitly required for the asset as a function of the current leverage ratios.⁹ Consequently, because

⁵ The risk-based capital guidelines issued by the FRB, the FDIC and the OCC in early 1989 will be phased in over a two-year transitional period beginning December 31, 1990. Proposed new leverage ratios are discussed *infra*.

⁶ This result stems from the definitions of terms used in each agency's regulations. For example, the OCC's regulations require that national banks maintain total capital equal to at least 6% of "adjusted total assets" and primary capital equal to at least 5.5% of "adjusted total assets." See 12 CFR 3.6. "Adjusted total assets" is defined by reference to the average total assets figure computed for and stated in a bank's most recent quarterly Call Report. *Id.* at § 3.2(a). Assets that a national bank has not transferred, and asset transfers that are not accorded sale treatment, are included in the average total assets reported in the Call Report. Conversely, asset transfers that are given sale treatment are not reported as part of the bank's asset base, and thus are not factored into the denominator of the primary and total capital ratios.

Similarly, the FRB guidelines and the FDIC regulations for federally-insured state-chartered member and nonmember banks require these institutions to maintain minimum levels of total capital to "total assets" of 6% and of primary capital to "total assets" of 5.5%. See 12 CFR 208.13 and appendix B to 12 CFR part 225. See also 12 CFR 325.3(b). The total assets figure used in calculating these ratios is defined with reference to the quarterly average total assets figure reported on a bank's Call Report. See appendix B to 12 CFR part 225, "Capital Ratios." See also 12 CFR 325.2(k). If an asset is not reported in a federally-insured state-chartered member or nonmember bank's Call Report, the asset is not factored into the calculation of the bank's "total assets."

the Call Report establishes four distinct rules for determining whether an asset transfer with recourse will receive sale treatment, capital support is required for some recourse arrangements but not for others. In addition, the various capital charges, like the different reporting treatments, do not take into account a bank's relative exposure to risk of loss.

In recognition of off-balance sheet exposures, such as the potential risk of loss from asset transfers with recourse that are reported as sales, the FRB, the FDIC and the OCC have always reserved the right to require banks to increase their capital. However, the regulations require a bank that has limited its recourse exposure on an asset transfer with recourse which cannot be reported as a sale to maintain capital against the full amount of the asset.

The OTS currently requires each savings association to maintain a leverage ratio, which is calculated as a percentage of its adjusted total assets as reported in the "Consolidated Capital Requirement" form, filed with the TFR. For purposes of its leverage ratio, the OTS uses "tangible assets" and "adjusted tangible assets", as defined in its capital regulation. These terms do not include assets that have been reported as sold in accordance with GAAP. The OTS regulation does not refer a savings association to its reported asset base for purposes of calculating its leverage ratio.

B. Risk-Based Capital

The risk-based capital guidelines of the FRB, the FDIC and the OCC establish a uniform definition of capital and a minimum riskbased capital ratio which is intended to enhance competitive equality among financial institutions. The guidelines specifically recognize the relative credit risk of different types of bank assets and off-balance sheet items.

Under the risk-based capital guidelines, a bank will be required to hold capital against an asset transferred with recourse even if the transfer is reported as a sale. For example, in addressing the risk-weighting of off-balance sheet exposures of national banks, the OCC's risk-based capital guidelines state that capital must be held against the full value of "assets sold under an agreement to repurchase and assets sold with recourse, to the extent that these assets are not reported on a national bank's statement of condition * * *." Appendix A to 12 CFR part 3, section 3(b)(1)(iii) (emphasis added). The risk-based capital guidelines of the FRB and the FDIC contain similar provisions. See

⁷ In March, 1989, the FFIEC issued reporting guidance for certain new items being added to the Call Report's Schedule RC-L, which has now been incorporated in the Call Report Instructions. See pages 7 and 8 of the enclosure to the FFIEC's Bank Letter dated March 9, 1989 (BL-10-89) and Call Report Instructions (Schedule RC-L, Instructions to Item 9(b)(1)). Among other provisions, this guidance clarified the meaning of "significant risk of loss," stating that if "the maximum contractual exposure under the recourse provision (or through the retention of a subordinated interest in the mortgages) at the time of the transfer is greater than the amount of probable loss that the bank has reasonably estimated that it will incur," then the "issuing bank" has retained the entire risk of loss, and the mortgage transfers may not be reported as sales. *Id.*

⁸ See 12 U.S.C. 2279aa *et seq.* (establishing the Federal Agricultural Mortgage Corporation, known as "Farmer Mac").

⁹ See *infra* section IV(B) (1) for discussion of GAAP treatment of asset sales with recourse.

Appendix A to 12 CFR part 208, Attachment IV and appendix A to 12 CFR part 325, II(D)(1).¹⁰ Thus, the treatment of a recourse arrangement and the calculation of a bank's minimum risk-based capital ratio under the banking agencies' guidelines is independent of the reporting treatment of an asset transfer.

The OTS currently applies a risk-based capital standard to the recourse arrangements of savings associations. See 12 CFR Part 567. These capital standards were adopted pursuant to FIRREA, and became effective on December 7, 1989, subject to a three-year phase-in period.¹¹ Under the OTS's rules, similar to the bank supervisory agencies' risk-based capital guidelines, any capital charge associated with an asset transfer is determined independently of its reporting treatment. Generally, savings associations that transfer assets with recourse must hold the amount of capital that would be required if they had not transferred the assets. An exception is provided for transactions in which the amount of recourse retained is less than the capital that would be required to support the credit risk associated with the transferred asset. In such cases, the savings association must only maintain capital equal to the amount of the recourse.

C. Proposed New Leverage Ratios for National Banks and Federally-Insured State-Chartered Banks

The OCC and the FRB have recently proposed, and the FDIC expects to propose, new leverage ratios which, in conjunction with the risk-based capital guidelines, would replace the current leverage ratios. As with the current leverage ratios, the new leverage ratios would require a bank to maintain a minimum amount of capital calculated as a percentage of its asset base reported in the Call Report.¹² The FRB,

the FDIC and the OCC recognize that any revisions to the Call Report Instructions that would affect the reporting treatment of an asset transfer with recourse might also affect the calculation of the leverage ratio.¹³

III. Current Lending Limit Treatment of Recourse Arrangements

Banks and savings associations are subject to statutory limits on the total loans or extensions of credit that may be outstanding to a borrower at one time.¹⁴ Among other purposes, the lending limit is intended to safeguard depositors by promoting credit risk diversification. Generally, for a national bank or savings association, total unsecured loans or extensions of credit outstanding to any one borrower at one time may not exceed 15% of the institution's unimpaired capital and unimpaired surplus. Amounts up to an additional 10% of unimpaired capital and surplus may be extended for loans and extensions of credit secured by readily marketable collateral.¹⁵ State-chartered banks are subject to state-imposed lending limits which are also expressed as percentages of capital.

The current lending limit calculation for national banks and savings associations measures the amount outstanding to a borrower as a function of the total dollars lent plus, under some circumstances, the amount committed. With respect to loan transfers with recourse, the OCC's regulations provide that when a bank sells a whole loan or loan participation in a transaction that does not result in a pro rata sharing of credit risk between the bank and the purchaser, the total amount of the loan transferred must still be included in the lending limit calculation of the amount outstanding to the underlying borrower.¹⁶ In effect, if a bank transfers a loan with recourse, the lending limit is applied to the full amount of the loan as though it has not been transferred.

The OCC's treatment of loan transfers with recourse under the lending limit is premised on the theory that when a bank transfers a loan with recourse, it

may have retained a concentration of the risk of nonpayment from the loan. For example, assume that a bank makes a \$100,000 loan. If the bank sells the loan with 10% recourse, it will have retained the risk of the first \$10,000 of loss on the entire loan. By accepting the first dollars of loss rather than agreeing to share losses with the purchaser on a pro rata basis, the bank has clearly retained a disproportionate amount of the risk in the whole loan. The current lending limit treatment of recourse arrangements prevent a bank from being able to sell a borrower's loans in order to be able to continue making new loans to that borrower, when the bank has actually retained a disproportionate exposure to that borrower's risk of default. This approach encourages risk diversification by preventing the bank from leveraging and concentrating risk in the same borrower.

IV. Issues for Comment

The Agencies consider it timely and appropriate to review the regulatory treatment of recourse arrangements, particularly in the context of the risk-based capital framework which affords an opportunity for the separate determination of reporting and capital treatments. As the risk-based capital guidelines of the FRB, the FDIC and the OCC become effective as of December 31, 1990, the Agencies are considering using the same date as the effective date for changes made to the regulatory treatment of recourse arrangements.

As set forth below, the Agencies request comment on how the term "recourse arrangement" should be defined, how such arrangements should be reported, and how the required capital support should be determined. Additionally, comment is requested on how recourse arrangements should be treated for purposes of the lending limit applicable to national banks and savings associations.

A. Definition of "Recourse Arrangement"

The Agencies are considering developing a broad definition of the term "recourse arrangement" that will recognize the potential effects of any arrangement that exposes a financial institution to a risk of loss. The Agencies request comment on how "recourse arrangement" should be defined, including how the issues discussed below should be addressed. The Agencies also request comment on the feasibility and appropriateness of developing a single definition for capital and reporting purposes, and on whether such a single definition could also be

¹⁰ The explanation of this provision in each of the three agencies' guidelines refers to the Call Report to establish a definition of "asset sales with recourse," and has apparently created some interpretive confusion. The FRB, the FDIC and the OCC intend to publish technical amendments to their risk-based capital guidelines to clarify the scope of this provision.

¹¹ See FIRREA, section 301 (amending the Home Owners' Loan Act of 1933 by adding a new section 5(i), requiring OTS to establish capital standards "no less stringent than the capital standards applicable to national banks").

¹² See 54 FR 46394 (November 3, 1989) (OCC Notice of Proposed Rulemaking); 55 FR 582 (January 5, 1990) (FRB Notice of Proposed Rulemaking). The OCC proposal would use a national bank's "adjusted total assets" and the FRB proposal would use a state-chartered member bank or bank holding company's "total assets" as the asset base against which the new leverage ratio would be calculated.

¹³ By contrast, because the OTS regulations do not require a savings association's leverage ratio to be calculated with reference to its reported asset base, changes in the reporting treatment of an asset transfer with recourse would not affect a savings association's leverage ratio.

¹⁴ See supra note 2 accompanying text.

¹⁵ FIRREA provides certain additional lending authority to savings associations under "Special Rule." See 12 U.S.C. 1464(u).

¹⁶ See 12 CFR 32.107. See also 54 FR 43398 (October 24, 1989) (Notice of Proposed Rulemaking amending 12 CFR part 32, proposing to move the text of 12 CFR 32.107, without substantive change). See also 12 CFR 7.7519 (loan repurchase agreements).

used for purposes of the lending limit applicable to national banks and savings associations.¹⁷

1. Explicit Recourse

A financial institution may accept or retain recourse pursuant to an explicit and legally binding agreement in many ways. The traditional concept of "recourse" is that of the loan seller's retention of some credit risk. Today, seller assurances against loss are increasingly extended to other types of risk, including interest rate and prepayment risk, foreign exchange risk, liquidity or marketability risks, and risks associated with a borrower's regulatory noncompliance or uninsurable hazards.

The Agencies recognize that asset sales are typically accompanied by certain standard representations and warranties concerning items within the seller's control. For example, the seller may warrant that a loan is not delinquent or is in compliance with consumer protection laws as of the date of the sale. If the triggering event is within the seller's control, the selling institution may be able to adequately protect itself, and it may be inappropriate to regulate the arrangement as a recourse arrangement. The Agencies therefore request comment on what types of standard representations and warranties should be excluded from regulatory treatment as recourse arrangements.

The Agencies are concerned, however, that some financial institutions have also offered unusual warranties and representations in situations that they cannot control. For example, some financial institutions have assumed risks associated with a borrower's failure to maintain loan collateral in compliance with environmental or health and safety laws, or have agreed to substitute loans in the event of prepayment. The Agencies request comment on the extent to which the definition of "recourse arrangement" should include exposure to risks other than credit risk.

The Agencies also recognize that in applying the risk-based capital standards and possibly for other regulatory purposes, it may be

appropriate to treat certain limited recourse arrangements differently than full recourse arrangements. The Agencies request comment on the methods available to financial institutions for providing limited recourse and on how to identify those limited recourse arrangements for which separate regulatory treatment might be appropriate.

In addition to recourse arrangements that may arise from a financial institution's sale of its own assets, a financial institution may also provide explicit assurances against the risk of loss associated with a third party's assets. For example, as the servicer of a pool of assets, a financial institution may accept some exposure to credit risk from the pool. As part of a brokering agreement, an institution may provide credit enhancement to ensure the performance of an issue, designed to absorb loss to the extent of the enhancement, or may commit to certain market-making activities. The Agencies request comment on how risks that do not arise from a financial institution's ownership or prior ownership of assets should be addressed in the definition of "recourse arrangement."

2. Implicit Recourse

A financial institution may also effectively assume recourse without an explicit contractual agreement. Implicit recourse is usually demonstrated by an institution's action subsequent to the sale of an asset. Implicit recourse may arise as a result of a loan seller's desire for a continuing relationship with a borrower, or for protection of its reputation with investors. For example, having packaged and sold a portfolio of loans without recourse, a financial institution may elect to rewrite the defaulted loan of a valued borrower that the institution believes is having temporary difficulties in repayment. A financial institution may also be tempted to repurchase assets it has sold into a pool that are not performing well, in order to protect the institution's reputation with investors and the public generally. The Agencies request comment on how the definition of "recourse arrangement" should address implicit recourse.

3. Methods of Providing Recourse

Assurances against loss may be provided through a variety of means. In some cases, recourse is provided through recourse clauses in sales contracts or put options granted in connection with asset sales. Recourse may also be provided through transactions that involve the creation of separate financial products.

For example, subordinated securities issued when loans are pooled and senior and subordinated classes of securities are created can operate analogously to recourse provisions on individual loans. The subordinated securities protect the senior securities by being first in line to absorb losses on the pool. Similarly, a second mortgage might function as a recourse arrangement. If a financial institution originates first and second mortgages on the same property and sells the first mortgage but retains the second mortgage, the financial institution is first in line to absorb losses in the event of the borrower's default. Claims under the second mortgage will only be met after the holder's claims under the first mortgage are satisfied.

A letter of credit intended to absorb losses on an asset or pool of assets originated or pooled by a third party may also effectively constitute recourse. If the third party seller is not obligated to reimburse the institution providing the letter of credit for any payments made under the letter of credit, then the letter of credit institution will have assumed a risk of loss on the assets. Alternatively, if the third party seller must reimburse the letter of credit institution, then that third party seller has effectively retained recourse on the assets sold equal to the amount of the letter of credit. In addition, the letter of credit institution would be exposed to a risk of loss on the assets in the event that the third party should fail to reimburse as required by the contract.¹⁸

The Agencies request comment on methods available to a financial institution to accept, assume or retain recourse. For example, as discussed herein, the Agencies request comment on whether subordinated securities, second mortgages or letter of credit enhancements should be treated as recourse arrangements, both where these interests are retained or acquired by the seller and where they are purchased or provided by a third party financial institution. With respect to subordinated securities, the Agencies specifically request comment on how

¹⁷ As indicated *infra* at note 28, the application of the lending limit to recourse arrangements is being considered only insofar as these arrangements expose a bank or savings association to credit risk. Thus, to the extent that the definition of recourse arrangement developed for use in the capital or regulatory reporting context includes arrangements that expose institutions to risks other than credit risk, the same definition would not be appropriate for use in the lending limit context. To the extent that the definition covers arrangements that expose an institution on credit risk, comment is requested on whether these same arrangements should be considered recourse for lending limit purposes.

¹⁸ Although letter of credit enhancements may ultimately be found to be "recourse arrangements" for regulatory reporting, capital or lending limit considerations, the OCC does not construe such letters of credit to create "recourse" in connection with sales of credit-enhanced securities for the purposes of section 16 of the Glass-Steagall Act, See 12 U.S.C. 24 (Seventh). This section authorizes national banks to sell "securities and stock without recourse" for their customers. See, e.g., *Securities Industry Association v. Comptroller of the Currency*, 577 F. Supp. 252 (D.D.C. 1983); *Awotin v. Atlas Exchange National Bank*, 295 U.S. 209 (1935); and OCC Interpretive Letter No. 212, reprinted in [1981-82 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 85,293 (July 2, 1981).

the definition of recourse should treat the middle classes, *i.e.*, the higher tier subordinated pieces, of issues that have more than two classes of securities.

B. Reporting Treatment of Asset Transfers With Recourse

As already discussed, the current Call Report treatment of an asset transfer with recourse for national and federally-insured, state-chartered banks varies, depending upon a range of factors. The Call Report requirements differ from the GAAP reporting requirements, which are generally applicable to savings associations. The FRB, the FDIC and the OCC believe that the present Call Report Instructions for asset transfers with recourse should be reevaluated. These agencies intend to work through the FFIEC in order to amend the Call Report requirements, as necessary. See 12 U.S.C. 3305(a).

The FRB, the FDIC and the OCC request comment on how assets transferred with recourse should be reported, including (1) Whether these agencies should consider adopting the GAAP approach for asset transfers with recourse, either in part or in its entirety, or some other wholly consistent approach, and (2) how changes to regulatory reporting will or should affect these agencies' leverage ratios.

1. Possible Adoption of GAAP Reporting Treatment of Asset Transfers with Recourse by the FRB, the FDIC, and the OCC

The GAAP definition of "sale" for transfers of receivables with recourse is discussed in the Financial Accounting Standards Board's Statement of Financial Accounting Standards No. 77 ("FAS 77").¹⁹ According to FAS 77, a transfer of receivables with recourse is to be reported as a sale if the reporting entity meets three conditions: (1) The transferor must surrender control of the future economic benefits embodied in the asset; (2) the transferor must be able to reasonably estimate its obligations under the recourse provision; and (3) the transferor must not be obligated to repurchase the assets except pursuant to the recourse provisions.

FAS 77 further provides: "If a transfer qualifies to be recognized as a sale, all probable adjustments in connection

with the recourse obligations to the transferor shall be accrued in accordance with FASB Statement No. 5, 'Accounting for Contingencies' [FAS 5]. FAS 5 requires the transferor of an asset with recourse to accrue by a charge to income an amount sufficient to absorb the transferor's estimated obligations under the recourse provision. The recourse obligation must be accrued as a liability or specific reserve,²⁰ and may not be included as part of the general allowance for loan and lease losses.²¹

After the Financial Accounting Standards Board adopted FAS 77, the FRB, the FDIC and the OCC, as members of the FFIEC, considered incorporating this accounting standard into their regulatory reporting requirements for assets transferred with recourse. At that time, the FFIEC chose not to follow FAS 77, concluding that it emphasized the transfer of future economic benefits, whereas the agencies were most concerned with a financial institution's retention of a risk of loss. The FFIEC also expressed concern that it might be difficult to reasonably estimate the risk of loss on some assets, such as commercial, construction and international loans.²²

Although the FRB, the FDIC and the OCC have previously rejected the FAS 77 reporting treatment for most asset transfers with recourse, these agencies are also committed to an ongoing effort to minimize the differences between generally accepted accounting principles and regulatory reporting requirements where possible. For example, one possibility is that the agencies might adopt the GAAP approach for some types of assets, such as loans considered subject to reasonable estimations of loss, but not necessarily for all types of assets.

In addition, the FRB, the FDIC and the OCC note that once their risk-based capital guidelines are implemented, the adoption of the GAAP reporting approach would not affect bank capital ratios to the same extent it would have

when the FFIEC originally considered FAS 77 in 1985. The requirement of capital support for an asset transfer at that time depended solely upon its reporting treatment. As discussed above, under the risk-based capital standards, national and federally-insured, state-chartered banks will be required to hold capital against an asset transferred with recourse even when the transfer is reported as a sale.

2. Possible Impact on the FRB, FDIC, and OCC Leverage Ratios

If the FRB, the FDIC and the OCC adopt the FAS 77 approach for reporting asset transfers with recourse, some asset transfers not currently reported as sales for Call Report purposes would qualify for sale treatment. If some other reporting treatment is adopted, it is also possible that some asset transfers currently reported as sales in the Call Report might no longer qualify for sale treatment. Either of these outcomes would potentially affect the capital required to meet the leverage ratios. Removing assets from the Call Report balance sheet would have the effect of lowering the reported asset base against which capital must be held for leverage purposes, thereby lowering the amount of capital required to meet the leverage ratios. Retaining additional assets on the balance sheet would have the effect of increasing the reported asset base, thereby increasing the capital necessary to meet the leverage ratios. The Agencies request comment on whether the leverage ratio calculation should be adjusted to include assets removed from the balance sheet and/or to exclude assets added to the balance sheet as a result of changes in the regulatory reporting treatment of recourse arrangements.

C. Capital Support Required for a Recourse Arrangement

1. Explicit Recourse Arrangements

The Agencies are considering requiring a financial institution that enters into an explicit, contractually binding, recourse arrangement to quantify its maximum possible risk of loss and to hold capital commensurate with that risk. This approach is consistent with the direction taken for asset transfers with recourse in establishing the risk-based capital standards. Nonetheless, the Agencies recognize the possible utility of some adjustments in the application of their risk-based capital standards, as presently drafted, to asset transfers with recourse.

The Agencies request comment on the general approach that they are

¹⁹ See Statement of Financial Accounting Standards No. 77, "Reporting by Transferors for Transfers of Receivables with Recourse" (December, 1983). For the purpose of FAS 77 "recourse" is defined as the "right of a transferee of receivables to receive payment from the transferor of those receivables for (a) Failure of the debtors to pay when due, (b) the effects of prepayments, or (c) adjustments resulting from defects in the eligibility of the transferred receivables." See appendix A, FAS 77.

²⁰ See Statement of Financial Accounting Standards No. 105, "Disclosure of Information about Financial Instruments with Off-Balance-Sheet Risk and Financial Instruments with Concentrations of Credit Risk," (March, 1990), paragraph 92, which states "[t]he [Financial Accounting Standards] Board believes that generally accepted accounting principles proscribe inclusion of an accrual for credit loss on a financial instrument with off-balance-sheet risk in a valuation account (allowance for loan losses) related to a recognized financial instrument."

²¹ Because accrued recourse obligations are specifically identifiable to the sold assets, they are not included in capital.

²² See October 28, 1985 FFIEC letter to Chief Executive Officers of Banks (Appendix).

considering for capital charges against explicit recourse arrangements. As discussed below, the Agencies specifically request comment on the feasibility and appropriateness of (a) Applying consistent capital charges to similar recourse exposures that arise as a result of a financial institution's prior ownership of an asset; (b) requiring equivalent capital charges for comparable recourse exposures that do not arise as a result of the financial institution's prior ownership of an asset; and (c) tailoring the capital charges to the relative exposure of particular recourse arrangements. The Agencies request that commenters give particular focus to ways of addressing limited recourse arrangements. In addition, the Agencies request that commenters address how insured financial institutions and bank holding companies' need for adequate capital should be balanced against their need to compete in markets that include participants subject to less stringent capital standards.

(a) Consistent Capital Charges for Recourse on Previously Owned Assets. The risk-based capital standards do not necessarily apply the same capital treatment to differently structured asset transfers that have the same potential effect on an institution's earnings, assets or capital.

For example, the risk-based capital standards require different capital support for a mortgage transferred with recourse and a second mortgage, which may be used in place of a recourse clause. To illustrate, if a financial institution originates a \$100,000 qualifying, first lien residential mortgage, it will be required to hold \$4000 in capital support against the loan ($\$100,000 \times 50\% \text{ risk-weight} \times 8\%$). If the originating institution sells this mortgage loan subject to a 10% recourse provision, the capital charge will not change. Alternatively, the same institution might originate two separate mortgages, a first mortgage for \$90,000 and a second mortgage for \$10,000. If the institution sells the first mortgage without recourse but retains the second mortgage, there will be no capital charge against the first mortgage and the charge against the second mortgage will only be \$800 ($\$10,000 \times 100\% \times 8\%$). Because the financial institution will absorb the first \$10,000 of losses under either of these arrangements, the maximum possible risk of loss on the two transactions is the same.

As another example of inconsistent capital treatments for asset transfers, the risk-based capital standards treat a seller's retained residual interest in a

pool of assets differently than subordinated interests or other forms retained recourse. In general terms, a residual interest in an interest in any excess cash flow stemming from a securitized asset pool over and above the amounts required to pay investors and applicable administrative expenses. Residual interests, like subordinated interests or other recourse arrangements, may absorb more than their pro rata share of loss. However, in certain cases, a financial institution that sells assets and retains a residual interest in them need hold capital only against that interest. By contrast, if the institution sells assets and retains subordinated securities or other forms of recourse it must hold capital against the entire amount of the assets sold.

(b) Equivalent Capital Charges for Recourse on Third Party Assets. The risk-based capital guidelines of the bank supervisory agencies do not explicitly address recourse arrangements that do not arise as a result of a financial institution's prior ownership of an asset. For example, mortgage servicing rights that a financial institution purchases from another party may include various types of recourse, including the requirement that the purchasing institution absorb credit losses on the loans it has agreed to service. It is important that the risks associated with these transactions be understood, quantified and risk-weighted as with any other off-balance sheet credit exposure. The OTS capital rule currently requires savings associations with mortgage servicing rights that include exposure to credit losses to hold capital against the full amount of the underlying loans through the application of the 100% credit conversion factor.

As another example, the risk-based capital guidelines of the bank supervisory agencies treat subordinated interests differently depending upon whether the bank retains a subordinated interest in assets it has owned and transferred, or purchases a subordinated interest in third party assets. The FRB, the FDIC, the OCC and the OTS all require financial institutions retaining the subordinated portion of a senior/subordinated structure to hold capital against the full amount of the assets transferred. However, if a bank purchases subordinated securities representing interests in loans that it has not originated or owned, the FRB, the FDIC and the OCC place only the purchased subordinated securities in a 100% risk-weight category. No capital is required for the senior portions supported by the purchased

subordinated portions.²³ By contrast, the OTS treats purchased subordinated securities the same as originated subordinated securities, and thus requires savings associations to hold capital against the whole asset pool.

(c) Capital Charges Tailored to Relative Risks. The risk-based capital standards do not necessarily require capital support commensurate with the relative risk exposure of a particular recourse arrangement.

For example, the risk-based capital guidelines of the bank supervisory agencies, as opposed to those of the OTS, do not distinguish between limited and unlimited recourse arrangements. The bank supervisory agencies require capital to be held against the full amount of an asset transferred with recourse, even if the transferring bank has limited its risk of loss on the recourse provision. The risk-based capital rules of the OTS differ in that they generally permit a savings association to maintain capital equal to the amount of the recourse exposure on an asset transferred with recourse if that exposure is less than the capital charge the asset would otherwise incur.

The Agencies believe that failing to give capital credit for any form of limited recourse may actually create an incentive for financial institutions to maximize their risk of loss in transferring assets with recourse. This is because buyers may pay more for assets sold with greater recourse than for the same assets sold with less recourse. If there are no additional capital charges for sales with full recourse, financial institutions may decide to transfer assets with full rather than limited recourse in order to benefit from higher sale prices.

The risk-based capital guidelines of the bank supervisory agencies also do not permit a reduction in the capital charge when a bank establishes a recourse liability account for its estimated obligations under the recourse provision. Similarly, the risk-based capital standards of the bank supervisory agencies and OTS may not fully address the interaction of third party guarantees or insurance that may be obtained by insured financial institutions to reduce their potential losses on assets they transfer with recourse.

²³ This discussion of the "purchase" of a subordinated security is undertaken solely as an illustration, and should not be viewed as an indication that such securities would be eligible for bank investment under federal or state law, or that bank holdings of such securities would not be subject to examiner criticisms or classifications.

For example, assume that a bank transfers by means of a privately-issued certificate of participation a \$1,000,000 pool of qualifying, first lien residential mortgage loans subject to 10% recourse in a transaction that may be treated as a sale for Call Report purposes.²⁴ Estimating its probable losses on the loans to be only 3%, the bank establishes a recourse liability account for \$30,000. Under the risk-based capital guidelines of the bank supervisory agencies, however, the creation of the recourse liability account would not operate to reduce the amount of the loans for determining the capital charge. Thus, notwithstanding the \$30,000 recourse liability account, the bank would still be required to maintain capital against the full amount of the loans, or capital of \$40,000 ($\$1,000,000 \times 50\% \text{ risk-weight} \times 8\%$). This treatment may actually discourage a bank from establishing an adequate recourse liability account.

By contrast, under the risk-based capital rules of the OTS, a savings association transferring the same pool of loans and establishing the same liability account may net the account against the full amount of the loans transferred. Thus, the total amount of the loans outstanding for capital purposes would be reduced to \$970,000, and the net recourse exposure would drop from \$100,000 to \$70,000. Because the liability account is netted against the total outstanding amount of the loans rather than the capital requirement, the savings association would be required to hold capital of \$38,800 ($\$970,000 \times 50\% \text{ risk-weight} \times 8\%$). If the recourse liability account had reduced the net recourse exposure below the capital requirement for the full amount of the loans less the recourse liability account, then the capital charge would have been reduced to the level of the net recourse exposure. For example, if the association had established a recourse liability account of \$80,000, then the required capital would have been limited to the amount of the net recourse exposure of \$20,000.

The risk-based capital standards also do not necessarily recognize differences in the degree to which an asset transferred with recourse is collateralized.²⁵ For example, assume

that a savings association originated two \$100,000 mortgage loans, one with a loan-to-collateral value ratio of 50%, and the other with a loan-to-collateral value ratio of 75%. If the savings association subsequently transferred both loans, each with 10% recourse, it would be required to hold the same minimum capital against each loan, despite the differences in the underlying collateral values.

Another example of a collateralized recourse arrangement involves the lending of customers' securities. Financial institutions that lend their customers' securities to third parties may provide protection against loss to the customers. The degree of such protection may vary from total indemnification to simply a guarantee that the customer will not lose money as a result of a decline in the market value of the pledged collateral should the borrower fail to return the securities. Thus, when a financial institution lends its customer's securities the degree of risk retained can vary from a very low percentage of 100% of the value of the lent securities. Nevertheless, if the financial institution provides any loss protection to the customer, the risk-based capital standards require that capital be held for the entire amount of the securities lent regardless of the level of the guarantee that is provided.

The risk-based capital standards also do not distinguish between recourse arrangements with different probabilities of loss. Thus, if a savings association or bank transfers ten loans, each with a balance of \$100,000, subject to 10% recourse per loan, or transfers the same loans with 10% recourse on the pool, the bank's total potential liability in each case is \$100,000 ($10 \text{ loans} \times \$100,000 \times 10\%$). The total capital required in each case would be \$80,000 ($10 \text{ loans} \times \$100,000 \times 8\%$). Nonetheless, the probability of loss in the latter instance is greater. If the recourse is on a "per loan" basis, the institution cannot lose the full \$100,000 unless each of the ten loans loses \$10,000. By contrast, if the recourse is on a "pool" basis, various combinations of loss, e.g., one loan losing \$100,000, or two loans each losing \$50,000, may result in the institution's absorbing its total potential loss.

Finally, the risk-based capital standards do not necessarily distinguish between recourse arrangements

structured as second dollars of loss and recourse arrangements structured as first dollars of loss. For example, in certain recourse arrangements, a financial institution undertakes to cover losses only after another party has already absorbed some loss. Even though the actual risk of loss is less than if the financial institution were obligated to absorb the first dollars of loss, the risk-based capital standards may require identical treatment of these recourse arrangements, depending on the particular factual situation.

2. Implicit Recourse Arrangements

The Agencies believe that financial institutions should not assume implicit recourse unless capital support is provided. The Agencies also recognize that the exposure arising from an implicit recourse arrangement, as opposed to an explicit arrangement, is difficult to quantify, and that it may not be feasible to apply the risk-based capital ratios to implicit arrangements. Accordingly, the Agencies will consider whether alternative approaches should be employed to control financial institutions' use of implicit recourse arrangements.

The Agencies note that existing regulatory constraints may already afford financial institutions some protection against the risks of assuming implicit recourse. For example, the requirement that a financial institution maintain specified capital ratios may limit the degree to which an institution can actually reacquire assets as a result of assuming implicit recourse. Prior to purchasing a poorly performing asset from a pool, the institution ordinarily must determine that it has adequate excess capital to book the asset. In addition, the desire for a particular tax treatment of a trust or single-purpose entity created to issue asset-backed securities may restrict a financial institution's ability to repurchase or exchange poorly performing assets.

The Agencies believe that implicit recourse arrangements are frequently associated with asset transfers, and especially securitized asset sales in which the issuing or selling institution may seek to ensure the issue's performance. To address this problem, the Agencies are considering requiring issuing and selling institutions to provide disclosures to purchasers that disclaim any financial institution's obligation for the performance of the transferred assets (other than obligations that may be explicitly assumed).

In addition, as has been their past practice, the Agencies will seek to

²⁴ Under the current Call Report Instructions, such a transaction would not receive sale treatment because the bank would retain more than a "significant risk of loss" on the loans transferred. However, if the FFIEC were to adopt the GAAP approach for reporting asset transfers with recourse, the issues raised in this example would arise.

²⁵ This situation is not unique to assets transferred with recourse, but also applies to on-balance sheet assets that are collateralized (other than by so-called "qualifying collateral"). The risk-

based capital ratio focuses principally on broad categories of credit risk. The ratio does not take account of many other factors that can affect an institution's financial condition such as the quality of individual loans and investments and the degree to which they are protected by collateral.

identify implicit recourse arrangements in the course of their examination and supervision of individual institutions.

If the primary federal supervisory agency for an individual financial institution determines that the institution habitually or consistently repurchases or rewrites assets it has sold that subsequently perform poorly, that agency will require that institution to maintain additional capital. The institution may also be required to treat the outstanding amount of other similar assets sold as though transferred with recourse for regulatory reporting purposes. A repetitive pattern of renewals or rewrites may also be determined to be an unsafe and unsound banking practice.²⁶

The Agencies request comment on their consideration of a disclosure requirement as one approach to discouraging financial institutions from assuming implicit recourse in connection with securitized asset sales and other asset transfers. The Agencies also request comment on any methods that may be used to estimate exposure arising from implicit recourse arrangements and on any other ways of addressing implicit recourse arrangements. Finally, the Agencies request comment on how the risk-based capital standards should be applied once it is determined that an institution clearly has assumed implicit recourse in a transaction or series of transactions.

D. Lending Limit Treatment of Recourse Arrangements

As discussed above, the lending limit calculation generally requires a national bank or savings association that transfers a loan with recourse to include the full amount of that loan in calculating the total loans and extensions of credit outstanding to the underlying borrower. The OCC and the OTS recognize, however, that other methods of computing the lending limit may be appropriate when an institution transfers a loan with partial recourse or otherwise limits its credit risk exposure from a recourse arrangement.²⁷ The

OCC and the OTS also recognize some inconsistencies in the current application of the lending limit to recourse arrangements. As for federally-insured, state-chartered banks, the staffs of the FRB and the FDIC believe that recourse exposure should be combined in some manner with all loans to one borrower for purposes of applying legal lending limits under state laws.²⁸

Comment is requested on how the lending limit calculation for national banks and savings associations should treat recourse arrangements generally, including the questions listed below. Comment is also requested on how lending limit calculations for federally-insured, state-chartered banks should treat such arrangements, including the questions listed below. Comment is also solicited on whether and how to achieve a more uniform treatment of recourse arrangements in lending limit calculations under the various applicable state laws.

1. If an institution transfers a loan with partial recourse, would it be appropriate to include less than the full outstanding amount of the loan transferred in the calculation of loans and extensions of credit outstanding to the borrower? More specifically, should the lending limit recognize that while the institution may have retained a disproportionate amount of the risk of loss in the loan, it has nonetheless shifted the risk of catastrophic loss by reducing its exposure from the full amount of the loan to the amount of the resource provision? Also, should the current treatment for national banks and savings associations be revised to permit an institution which establishes a recourse liability account covering all or part of its recourse exposure to deduct the amount of the account from the calculation of loans outstanding to the borrower? Should the establishment of such a liability account affect the calculation of loans outstanding to one borrower at federally-insured, state-chartered banks?

2. Is it appropriate to require the full outstanding balance of a loan transferred with recourse to be included in the calculation of loans outstanding to the borrower if banks and savings associations must also support the retained risk by holding capital against the full outstanding balance of the asset? This question should be

considered in view of the fact that capital requirements are specifically intended to address the risk contained in an institution's assets and off-balance sheet items, whereas the lending limit is designed to promote credit risk diversification.

3. Should the lending limit be applied to achieve a more consistent treatment of different types of transactions that may expose an institution to the same degree of credit risk from an underlying borrower? For example, for national banks and savings associations, there is a discrepancy between the lending limit treatment accorded subordinated loans and the treatment accorded subordinated participations. If an institution originates first and second mortgages, on the same property and sells only the first mortgage, the second mortgage will function as a recourse arrangement on the first mortgage. Yet, the institution is required to include only the amount of the second mortgage in its calculation of loans outstanding to the borrower. By contrast, if the institution made a single loan to the same borrower for the same total amount, and then sold the loan with recourse equal to the amount of the second mortgage, the entire loan would be included in the lending limit calculation. Arguably, despite the differing lending limit treatments, the institution's exposure to the borrower's credit risk in the two transactions is the same.

V. Listing of Questions for Comment

To briefly summarize, the Agencies request comment on the following issues:

The definition of "recourse arrangement":

1. How should "recourse arrangement" be defined? What types of risk should be construed as creating a recourse arrangement? Should the same definition be developed for use in the capital, reporting and, as appropriate, lending limit contexts?

2. What methods are available to a financial institution to accept, assume or retain recourse? For example, should the following items, in some circumstances, be considered "recourse arrangements": (a) Subordinated interests; (b) second mortgages; and (c) letter of credit enhancements?

The regulatory reporting treatment of a "recourse arrangement":

3. Should the FRB, the FDIC and the OCC adopt generally accepted accounting principles, in whole or in part, or adopt some other wholly consistent approach for the reporting treatment of asset transfers with recourse?

²⁶ The Agencies emphasize that they do not intend to discourage a financial institution with adequate capital from independently deciding to repurchase or rewrite a sold loan that is performing poorly, when the institution intends to work with the underlying borrower and the accommodation is clearly in the best interests of the institution and the borrower.

²⁷ Some states apply the lending limit for national banks to state-chartered banks. Therefore, changes in the OCC's lending limit treatment of recourse arrangements could affect some state-chartered banks as well as national banks and savings associations.

²⁸ This discussion of the lending limit treatment of recourse arrangements is intended to apply only to arrangements that expose a bank or savings association to the credit risk of a borrower. It is not intended that the lending limit would apply to recourse arrangements that expose an institution to other types of risk.

4. What effect would a change to the reporting treatment have on the leverage ratios of the FRB, the FDIC and the OCC? Should the reporting treatment of assets transferred with recourse have an effect on the leverage ratio?

The appropriate capital requirement for explicit recourse arrangements:

5. Should the Agencies impose the same capital requirement on transactions structured differently but with the same potential effect on a financial institution's income, assets or capital?

6. Should the risk-based capital standards distinguish between limited and unlimited recourse arrangements?

7. Should the risk-based capital standards take into account an established recourse liability account or third party guarantees or insurance? If so, how?

8. Should application of the risk-based capital standards to recourse arrangements take into account differences in the degree to which an asset transferred with recourse is collateralized?

9. Should the risk-based capital standards fully recognize recourse arrangements that do not arise as a result of a financial institution's prior ownership of an asset?

10. What other types of explicit recourse arrangements not discussed in this solicitation are available to financial institutions?

11. Should the risk-based capital standards distinguish between recourse arrangements with different probabilities of loss?

12. How should the need for insured depository institutions and bank holding companies to maintain adequate capital be balanced against their need to compete in markets that include participants that are subject to less stringent capital standards?

The appropriate treatment of implicit recourse arrangements:

13. Should the Agencies adopt disclosure requirements to discourage implicit recourse arrangements?

14. Are there methods available to estimate potential exposure from implicit recourse arrangements?

15. Are there ways, other than disclosure requirements, to address and discourage implicit recourse?

16. How should the risk-based capital standards be applied to a financial institution that has clearly assumed implicit recourse in a transaction or series of transactions?

Comment is requested on the following issues concerning the lending limit applicable to banks and savings associations:

17. When a bank or savings associations transfers a loan with limited recourse, should the lending limit be applied to the full amount of the assets, as though it had not been transferred?

18. Should the lending limit calculation result in the same treatment for transactions structured differently, but with the same potential risk of loss on nonpayment?

19. Is it appropriate to include the full outstanding balance of a loan transferred with recourse in the calculation of loans outstanding to the borrower when banks and savings associations are also required to hold capital against the full amount of the asset?

20. Should the treatment of recourse arrangements in legal lending limit calculations applicable to federally-insured, state-chartered banks under state laws be made more uniform? If so, how?

Dated: June 25, 1990.

Robert J. Lawrence,
Executive Secretary, Federal Financial
Institutions Examination Council.

[FR Doc. 90-15093 Filed 6-28-90; 8:45]

BILLING CODE 6210-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202-010122-019

Title: Inter-American Freight Conference Area River Plate/Puerto Rico and U.S. Virgin Islands/River Plate.

Parties: A. Bottacchi S.A. De Navegacion C.F.I.e L. American Transport Lines, Inc., A/S Ivaran Rederi, Companhia de Navegacao Lloyd Brasileiro, Companhia Maritima Nacional, Empresa Lineas Maritimas

Argentinas S.A., Transportacion Maritimas Mexicana S.A.

Synopsis: The proposed modification would (1) authorize the Conference to enter into loyalty contracts, (2) prohibit member lines of the conference from entering into individual loyalty contracts or taking independent action on any conference loyalty contract and (3) delete Transportacion Maritima Mexicana S.A. from appendix A.

Agreement No.: 203-011289

Title: Leif Hoegh & Co., A/S—Ugland Trading Co. A/S—Ugland Investment Co. A/S—Hoegh-Ugland Auto Liners A/S (HUAL) Partnership (Shareholders) Agreement.

Parties: Leif Hoegh & Co. A/S, Ugland Trading Co. A/S, Ugland Investment Co. A/S, Hoegh-Ugland Auto Liners A/S.

Synopsis: The proposed Agreement would provide an administrative structure for HUAL, a company owned by the other three parties to the Agreement, including (1) management organization, (2) allocation of shareholder financial responsibilities, (3) subsidiaries for marketing and/or operations, (4) exclusive or primary areas of operations, (5) a system for provision of tonnage to HUAL and (6) a system for distribution of profit or loss.

By Order of the Federal Maritime Commission.

Dated: June 25, 1990.

Joseph C. Polking,
Secretary.

[FP Doc 90-15090 Filed 6-28-90; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

BanPonce Corporation, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the

Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than July 23, 1990.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *BanPonce Corporation*, Hato Rey, Puerto Rico; to acquire 100% of the voting shares of Banco Popular de Puerto Rico, Hato Rey, Puerto Rico.

B. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grant Avenue, Kansas City, Missouri 64198:

1. *Rogers County Bank Holding Company*, Claremore, Oklahoma; to acquire 100 percent of the voting shares of Bank of Oklahoma, Claremore, Oklahoma, and Bank of Oklahoma, Pryor, Oklahoma.

Board of Governors of the Federal Reserve System, June 25, 1990.

Jennifer J. Johnson,
Associate Secretary of the Board.

[FR 90-15138 Field 6-23-90; 8:45 am]

BILLING CODE 6210-01-M

Allen W. Buhr; Change in Bank Control; Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for the notice or to the offices of the Board of Governors. Comments must be received not later than July 13, 1990.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Allen W. Buhr*, Ronan, Montana to acquire 3.36 percent of the voting shares of Valley Holding Company, Ronan,

Montana, and thereby indirectly acquire Valley Bank of Ronan, Ronan, Montana.

Board of Governors of the Federal Reserve System, June 25, 1990.

Jennifer J. Johnson,
Associate Secretary of the Board.

[FR Doc. 90-15137 Field 6-28-90; 8:45 am]

BILLING CODE 6210-01-M

Barclays PLC and Barclays Bank PLC London, England, Application To Provide Investment Advisory and Brokerage Services on a Combined Basis, Related Securities Credit Activities, and Investment Advisory Services on a Separate Basis

Barclays PLC and Barclays Bank PLC, both of London, England ("Barclays"), have applied pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) (the "BHC Act") and 225.23(a) of the Board's Regulation Y (12 CFR 225.23(a)), for prior approval to engage through its subsidiary, Barclays de Zoete Wedd Incorporated, New York, New York ("BZWI"), in providing investment advisory and brokerage services on a combined basis ("full-service brokerage") for institutional customers, related securities credit activities pursuant to the Board's Regulation T, and incidental activities such as offering custodial services and cash management services. Barclays also proposes to engage, through BZWI, in the following financial advisory activities for institutional customers: (a) Providing portfolio investment advice; and (b) furnishing general economic information and advice, general economic statistical forecasting services and industry studies. For the purposes of this application, the term "institutional customers" has the same meaning as in *Bankers Trust New York Company*, 74 Federal Reserve Bulletin 695, 695 n.1 (1988). BZWI would conduct the proposed activities domestically and internationally.

BZWI's current activities are as follows: (i) Merger and acquisition and related advisory services; (ii) making and servicing loans; (iii) providing securities brokerage services on U.S. securities pursuant to § 225.25(b) (15) of Regulation Y (i.e., not in combination with advisory or research services); and (iv) providing services, as agent, with respect to foreign securities pursuant to §§ 211.12(f)(3) and 211.4(e)(7) of Regulation K.

Section 4(c)(8) of the BHC Act provides that a bank holding company may, with prior Board approval, engage directly or indirectly in any activities "which the Board after due notice and opportunity for hearing has determined

(by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto."

The Board has previously determined that engaging in full-service brokerage activities is closely related and a proper incident to banking. See, e.g., *National Westminster Bank PLC*, 72 Federal Reserve Bulletin 584 (1986) ("Natwest"). Barclays has committed to conduct these activities subject to the limitations in Natwest, as they were modified in *The Toronto Dominion Bank*, 76 Federal Reserve Bulletin _____ (1990); *The Bank of Tokyo, Ltd.*, 76 Federal Reserve Bulletin _____ (1990); *Bankers Trust New York Corporation*, 74 Federal Reserve Bulletin 695 (1988); and *Manufacturers Hanover Corporation*, 73 Federal Reserve Bulletin 930 (1987). Barclays also may have one officer of its New York branch serving as a director of BZWI. The Board has previously permitted a similar interlock. See *The Bank of Tokyo, Ltd.*, 76 Federal Reserve Bulletin _____ (1990).

Barclays also seeks authority for BZWI, within defined parameters established by institutional customers, to exercise discretion in buying and selling securities on behalf of institutional customers. This service would be performed solely for institutional customers subject to the conditions in *J.P. Morgan & Co. Incorporated*, 73 Federal Reserve Bulletin 810, 811 (1987).

The related securities credit activities pursuant to the Board's Regulation T and incidental activities such as offering custodial services and cash management services are authorized by § 225.25(b)(15) of the Board's Regulation Y.

In addition, the Board has previously determined that the proposed investment advisory services are closely related and a proper incident to banking. These activities are permissible nonbanking activities pursuant to § 225.25(b)(4) (iii) and (iv) of Regulation Y and will be conducted pursuant to the limitations of those subsections. (12 CFR 225.25(b) (4) (iii) and (iv)).

In determining whether an activity is a proper incident to banking, the Board must consider whether the proposal may "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." 12 U.S.C. 1843(c)(8). Barclays contends that

permitting it to engage in the proposed activities would result in increased competition and greater convenience to customers. Moreover, Barclays believes that the proposed activities will not result in any unsound banking practices or other adverse effects.

In publishing the proposal for comment the Board does not take a position on issues raised by the proposal. Notice of the proposal is published solely in order to seek the views of interested persons on the issues presented by the application and does not represent a determination by the Board that the proposal meets or is likely to meet the standards of the BHC Act or the Glass-Steagall Act.

Any comments or requests for a hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than July 17, 1990. Any request for a hearing on this application must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of reasons why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

This application may be inspected at the offices of the Board of Governor of the Federal Reserve Bank of New York.

Board of Governors of the Federal Reserve System, June 25, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-15139 Filed 6-28-90; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Solvay Animal Health, Inc. (Formerly Fromm Laboratories, Inc.); Withdrawal of Approval of NADA

AGENCY: Food and Drug Administration HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of a new animal drug application (NADA) held by Solvay Animal Health, Inc. (formerly Fromm Laboratories, Inc.). The NADA provides for the use of thiacetarsamide sodium injection for treating canine heartworm

disease. The firm requested withdrawal of the approval. In a final rule published elsewhere in this issue of the *Federal Register*, FDA is amending the animal drug regulations to remove those portions of the regulations reflecting the approval.

EFFECTIVE DATE: July 9, 1990.

FOR FURTHER INFORMATION CONTACT:

Mohammad I. Sharar, Center for Veterinary Medicine (HFV-216), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4093.

SUPPLEMENTARY INFORMATION: Solvay Animal Health, Inc., 1201 Northland Dr., Mendota Heights, MN 55120 (formerly Fromm Laboratories, Inc., Grafton, WI 53024), is the sponsor of NADA 30-770, which provides for the use of thiacetarsamide (arsenamide) sodium aqueous injection for treating canine heartworm disease. The NADA was approved on April 1, 1971.

By letter of October 6, 1989, Solvay Animal Health, Inc., on behalf of the sponsor of record, Fromm Laboratories, Inc., requested withdrawal of the approval of NADA 30-770 because the product is no longer produced or marketed.

Therefore, under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 Withdrawal of approval of applications (21 CFR 514.115), notice is given that approval of NADA 30-770 and all supplements thereto is hereby withdrawn, effective July 9, 1990.

In a final rule published elsewhere in this issue of the *Federal Register*, FDA is amending 21 CFR 510.600(c) and 522.144(c) to reflect the withdrawal of approval.

Dated: June 25, 1990.

Richard H. Teske,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 90-15224 Filed 6-28-90; 8:45 am]

BILLING CODE 4160-01-M

Health Resources and Services Administration

Advisory Council Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory bodies scheduled to meet during the month of August 1990.

Name: Faculty Development Review Committee.

Date and Time: August 6-9, 1990, 8:30 a.m.

Place: Conference Rooms K and L, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Open on August 6, 8:30 a.m.-9:30 a.m.

Closed for remainder of meeting.

Purpose: The Faculty Development Review Committee shall review applications that (1) plan, develop and operate programs for the training of physicians who plan to teach in family medicine training programs; and support physicians who are trainees in such programs and who plan to teach in family medicine training programs; and that (2) plan, develop and operate programs for the training of physicians who plan to teach in general internal medicine or general pediatrics training programs and support traineeships and fellowships to physicians in training.

Agenda: The open portion of the meeting will cover welcome and opening remarks, financial management and legislative implementation updates, and overview of the review process. The meeting will be closed to the public on August 6, at 9:30 a.m. for the remainder of the meeting for the review of grant applications. The closing is in accordance with the provisions set forth in section 552b(c)(6), title 5 U.S.C. Code, and the determination by the Acting Administrator, Health Resources and Services Administration, pursuant to Public Law 92-463.

Name: Graduate Training in Family Medicine Review Committee

Date and Time: August 21-23, 1990, 8:30 a.m.

Place: Conference Room J, K, & L, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Open on August 21, 8:30 a.m.-9:30 a.m.

Closed for remainder of meeting.

Purpose: The Graduate Training in Family Medicine Review Committee shall review applications from public or nonprofit private hospitals, and other public or nonprofit entities that plan, develop and operate or participate in approved graduate training programs in the field of family medicine; or supports trainees in such programs who plan to specialize or work in the practice of family medicine.

Agenda: The open portion of the meeting will cover welcome and opening remarks, financial management and legislative implementation updates, and overview of the review process. The meeting will be closed to the public on August 21, at 9:30 a.m. for the remainder of the meeting for the review of grant applications. The closing is in accordance with the provisions set forth in section 552b(c)(6), title 5 U.S.C. Code, and the determination by the Acting Administrator, Health Resources and Services Administration, pursuant to Public Law 92-463.

Name: Residency Training Review Committee.

Date and Time: August 28-29, 1990, 8:30 a.m.

Place: Conference Rooms J, and K, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Open on August 28, 8:30 a.m.-9:30 a.m.
Closed for Remainder of Meeting.

Purpose: The Residency Training Review Committee shall review applications that plan, develop and operate approved residency training programs in internal medicine or pediatrics, which emphasize the training of residents for the practice of general internal medicine or general pediatrics and assist residents, through traineeships and fellowships, who are participants in any such program and who plan to specialize or work in the practice of general internal medicine or general pediatrics.

Agenda: The open portion of the meeting will cover welcome and opening remarks, financial management and legislative implementation updates, and overview of the review process. The meeting will be closed to the public on August 28, at 9:30 a.m. for the remainder of the meeting for the review of grant applications. The closing is in accordance with the provisions set forth in section 552b(c)(6), title 5 U.S.C. Code, and the Determination by the Acting Administrator, Health Resources and Services Administration, pursuant to Public Law 92-463.

Anyone requiring information regarding the subject Councils should contact Mrs. Sherry Whipple, Executive Secretary of the Faculty Development Review Committee, the Graduate Training in Family Medicine Review Committee, and the Residency Training Review Committee, room 4C-18, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301) 443-6874.

Agenda items are subject to change as priorities dictate.

Dated: June 27, 1990.

Jackie E. Baum,

*Advisory Committee Management Officer,
HRSA.*

[FR Doc. 90-15225 Filed 6-26-90; 8:45 am]

BILLING CODE 4160-15-M

National Institutes of Health

National Center for Nursing Research; Meeting: Nursing Science Review Committee

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Nursing Science Review Committee, National Center for Nursing Research, July 18-20, 1990, Building 31C, Conference Room 7, National Institutes of Health, Bethesda, Maryland 20892.

This meeting will be open to the public on July 18 from 9 a.m. to 10 a.m. Agenda items to be discussed will include an overview of NCNR new initiatives.

Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S. Code and section 10(d) of Public Law 92-463, the meeting

will be closed to the public on July 18 at approximately 10 a.m. to adjournment on July 20 for completion of the review, discussion, and evaluation of individual grant applications. The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. John Chah, Executive Secretary, Nursing Science Review Committee, National Institutes of Health, Building 31, room 5B19, Bethesda, Maryland 20892, (301) 496-0472, will provide a summary of the meeting, roster of committee members, and substantive program information upon request.

Dated: June 19, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90-15120 Filed 6-28-90; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Allergy and Infectious Diseases; Meeting of Basic Sciences II Subcommittee of the Acquired Immunodeficiency Syndrome Research Review Committee

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Basic Sciences II Subcommittee of the Acquired Immunodeficiency Syndrome Research Review Committee, National Institute of Allergy and Infectious Diseases, on July 11, 1990 at the Chevy Chase Holiday Inn, 5520 Wisconsin Avenue, Bethesda, Maryland 20815.

The meeting will be open to the public from 8:30 a.m. to 9 a.m. on July 11 to discuss administrative details relating to committee business and for program review. Attendance by the public will be limited to space available. In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92-463, the meeting will be closed to the public for the review, discussion, and evaluation of individual grant applications and contract proposals from 9 a.m. until adjournment on July 11. These applications, proposals, and discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Patricia Randall, Office of Research Reporting and Public

Responses, National Institute of Allergy and Infectious Diseases, Building 31, room 7A32, National Institutes of Health, Bethesda, Maryland 20892, telephone (301) 496-5717, will provide a summary of the meeting and a roster of the committee members upon request.

Dr. Allen Stoolmiller, Executive Secretary, Acquired Immunodeficiency Syndrome Research Review Committee, NIAID, NIH, Westwood Building, room 3A11, Bethesda, Maryland 20892, telephone (301) 496-7042, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.855, Pharmacological Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

Dated: June 19, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90-15121 Filed 6-28-90; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Allergy and Infectious Diseases; Meeting of Clinical Applications, Prevention and Treatment Subcommittee of the Acquired Immunodeficiency Syndrome Research Review Committee

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Clinical Applications, Prevention and Treatment Subcommittee of the Acquired Immunodeficiency Syndrome Research Review Committee, National Institute of Allergy and Infectious Diseases, on July 11, 1990 at the Chevy Chase Holiday Inn, 5520 Wisconsin Avenue, Bethesda, Maryland 20815.

The meeting will be open to the public from 8 a.m. to 8:30 a.m. on July 11 to discuss administrative details relating to committee business and for program review. Attendance by the public will be limited to space available. In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92-463, the meeting will be closed to the public for the review, discussion, and evaluation of individual grant applications and contract proposals from 8:30 a.m. until adjournment on July 11. These applications, proposals, and discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Patricia Randall, Office of Research Reporting and Public Responses, National Institute of Allergy and Infectious Diseases, Building 31, room 7A32, National Institutes of Health, Bethesda, Maryland 20892, telephone (301-496-5717), will provide a summary of the meeting and a roster of the committee members upon request.

Dr. Sally A. Mulhern, Executive Secretary, Acquired Immunodeficiency Syndrome Research Review Committee, NIAID, NIH, Westwood Building, room 3A07, Bethesda, Maryland 20892, telephone (301-496-2550), will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.855, Pharmacological Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

Dated: June 19, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90-15122 Filed 6-28-90; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Environmental Health Sciences; Meeting of Environmental Health Sciences Review Committee

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Environmental Health Sciences Review Committee on July 30-31, in Building 101 Conference Room, South Campus, NIEHS, Research Triangle Park, North Carolina. The meeting on July 30, from 1 p.m. until recess has been set aside for orientation of new members. The meeting will be open to the public on July 31 from 9 a.m. to approximately 10:30 a.m. for general discussion. Attendance by the public is limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92-463, the meeting will be closed to the public on July 31,

from 10:30 a.m. to adjournment on July 31, for the review, discussion and evaluation of individual grant applications and contract proposals. These applications and proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Drs. John Braun, Carol Shreffler or Donald McRee, Executive Secretaries, Environmental Health Sciences Review Committee, National Institute of Environmental Health Sciences National Institutes of Health, P.O. Box 12233, Research Triangle Park, North Carolina 27709, (telephone 919-541-7826), will provide summaries of meeting and rosters of committee members.

(Catalog of Federal Domestic Assistance Program Nos. 13.112, Characterization of Environmental Health Hazards; 13.113, Biological Response to Environmental Health Hazards; 13.114, Applied Toxicological Research and Testing; 13.115, Biometry and Risk Estimation; 13.894, Resource and Testing; 13.115, Biometry and Risk Estimation; 13.894, Resource and Manpower Development, National Institutes of Health)

Dated: June 13, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90-15123 Filed 5-28-90; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Public Health Service (PHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with

the Paperwork Reduction Act (44 U.S.C. chapter 35). The following requests have been submitted to OMB since the list was last published on Friday, June 15, 1990. (Call PHS Reports Clearance Officer on 202-245-2100 for copies of package.)

1. Notice of Participation (21 CFR 12.45)—0910-0191

This regulation specifies information to be provided to the Food and Drug Administration (FDA) relative to a participant's special interest and commitment to participate in a hearing. *Respondents:* Individuals or households, State or local governments, businesses or other for-profit, non-profit institutions, small businesses or organizations; *Number of Respondents:* 50; *Number of Responses per Respondent:* 1; *Average Burden per Response:* 3 hours; *Estimated Annual Burden:* 150 hours.

2. Advisory Opinions—0910-0193

The regulation prescribes the format and instructions whereby any interested person may request an advisory opinion from the FDA on a matter of general applicability. *Respondents:* Individuals or households, State or local governments, businesses or other for-profit, non-profit institutions, small businesses or organizations; *Number of Respondents:* 10; *Number of Responses per Respondent:* 1; *Average Burden per Response:* 16 hours; *Estimated Annual Burden:* 160 hours.

3. Infant Formula Quality Control and Labeling—0910-0179

Infant Formula Labeling and Infant Formula Quality Control Procedures are necessary to assure that nutrient levels of infant formula are declared on the label and meet the requirements of the Infant Formula Act. The regulations affect formula manufacturers/consumers. *Respondents:* Businesses or other for-profit.

	No. of respondents	No. of hours per response	No. of responses per respondent
Reporting: 21 CFR 106.120(a), (b), 107.10(a), (a)(1) & (a)(2), 107.20(a) & (c)	5	5.5 hrs.	2
Recordkeeping: 21 CFR 106.20, 106.25, 106.30(b)(1), (b)(2), (b)(3), (c)(1), (c)(2), 106.100	5	7500 hrs.	

Estimated Annual Burden: 37,555

4. (Petition for) Administrative Stay of Action (21 CFR 10.35)—0910-0194

This regulation gives a format and

instructions for petitioning the FDA for an administrative stay of an Agency action. *Respondents:* Individuals or households, State or local governments, businesses or other for-profit, Federal agencies or employees, non-profit

institutions, small businesses or organizations; *Number of Respondents:* 8; *Number of Responses per Respondent:* 1; *Average Burden per Response:* 5 hours; *Estimated Annual Burden:* 40 hours.

5. NLM Online Application Packet—0925-0223

The National Library of Medicine (NLM) uses the information provided by organizations and individuals on the forms for MEDLARS online system user code assignments and invoices for system use. *Respondents:* Individuals or households, State or local governments, businesses or other for-profit, Federal agencies or employees, non-profit institutions, small businesses or organizations; *Number of Respondents:* 15,000; *Number of Responses per Respondent:* 1; *Average Burden per Response:* 0.0833 hours; *Estimated Annual Burden:* 1,245 hours.

OMB Desk Officer: Shannah Koss-McCallum.

Written comments and recommendations for the proposed information collections should be sent within 30 days of this notice directly to the OMB Desk Officer designated above at the following address: Human Resources and Housing Branch, New Executive Office Building, room 3002, Washington, DC 20503.

Dated: June 25, 1990.

James M. Friedman,
Acting Deputy Assistant Secretary for Health
(Planning and Evaluation).

[FR Doc. 90-15091 Filed 6-28-90; 8:45 am]

BILLING CODE 4160-17-M

Social Security Administration

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Social Security Administration publishes a list of information collection packages that have been submitted to the Office of Management and Budget (OMB) for clearance in compliance with Public Law 96-511, The Paperwork Reduction Act. The following clearance packages have been submitted to OMB since the last list was published in the *Federal Register* on June 11, 1990. (Call Reports Clearance Officer on (301) 965-4149 for copies of package.)

1. Request for Waiver of Overpayment Recovery or Change in Repayment Rate—0960-0037

The information on form SSA-632 is used by the Social Security Administration to determine whether an overpaid person has the ability to make repayment, the installment amount of such repayment, or whether the overpayment may be waived. The respondents are individuals who file for waiver of an overpayment, or file this

form to adjust the installment amount of such repayment. *Number of Respondents:* 500,000; *Frequency of Response:* 1; *Average Burden Per Response:* 25 minutes; *Estimated Annual Burden:* 125,000 hours.

2. Statement of Care and Responsibility for the Beneficiary—0960-0109

The information on form SSA-788 is used by the Social Security Administration to evaluate the concern that a potential representative payee shows toward the beneficiary. The respondents are individuals or institutions who have custody of a beneficiary for whom someone else has failed to be representative payee. *Number of Respondents:* 130,000; *Frequency of Response:* 1; *Average Burden Per Response:* 10 minutes; *Estimated Annual Burden:* 21,667 hours.

OMB Desk Officer: Allison Herron.
Written comments and recommendations regarding these information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, room 3208, Washington, DC 20503.

Dated: June 25, 1990.

Ron Compston,
Social Security Administration, Reports
Clearance Officer.

[FR Doc. 90-15084 Filed 6-28-90; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N-90-3113]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Scott Jacobs, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT:

David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20410, telephone (202) 708-0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total numbers of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: June 22, 1990.

John T. Murphy,
Director, Information Policy and Management
Division.

Notice of Submission of proposed Information Collection to OMB

Proposal: Prepayment of a HUD-Insured Mortgage by an Owner of Low-Income Housing, FR-2450.

Office: Housing.

Description of the need for the information and its proposed use: This rule gives regulatory effect to legislative provisions governing prepayment of HUD-Insured Mortgages. These provisions ensure that affordable multifamily housing units are preserved to the maximum extent practicable for lower-income families and that displacement of such families is minimized while public and private sectors find long term remedies to the potential loss of affordable housing.

Form number: None.

Respondents: Individuals or Households, State or Local Governments, Business or Other For-

Profit, and Federal Agencies or Employees.

Frequency of Submission: One-Time.
Reporting burden:

	Number of respondents	×	Frequency of respondents	×	Hours per response	=	Burden hours
Information Collections.....	25		1		Varies (1-4 hrs)		770

Total estimated burden hours: 770.

Status: Reinstatement.

Contact: Kevin East, HUD, (202) 708-2300, Scott Jacobs, OMB, (202) 395-6880.

Dated: June 22, 1990.

[FR Doc. 90-15146 Filed 6-28-90; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. N-90-311 4]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Scott Jacobs, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT:

David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20410, telephone (202) 755-6050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total numbers of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an

information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: June 20, 1990.

John T. Murphy, Director,
Information Policy and Management
Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Mortgage Questionnaire.

Office: Housing.

Description of the Need for the Information and its proposed Use: The Department will use this form to collect information that will provide an overview of the mortgagee's operation for servicing HUD-insured single-family mortgages and to forecast possible weaknesses in a servicing operation prior to an on-site review of the mortgagee's office procedures.

Form number: HUD-9800.

Respondents: Business Or Other For-Profit.

Frequency of Submission: Biennially.
Reporting burden:

	Number of respondents	×	Frequency of respondents	×	Hours per response	=	Burden hours
HUD-9800.....	2,600		.5		2.5		3,250

Total Estimated Burden Hours: 3,250.

Status: Extension.

Contact: Leslie Bromer, HUD (202) 708-1672, Scott Jacobs, OMB, (202) 395-6880.

Dated: June 22, 1990.

[FR Doc. 90-15147 Filed 6-28-90; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. N-90-3112]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Scott Jacobs, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT:

David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 755-6050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total numbers of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an

information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: June 21, 1990.

John T. Murphy,

Director, Information Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Application for Homeownership Assistance Under

section 235 of the Housing Act.

Office: Housing.

Description of the Need for the Information and Its Proposed Use: The Form HUD-93100 will be used to determine a homeowner's eligibility for and amount of financial assistance to be provided under Section 235, Homeowners Assistance Payments Program.

Form Number: HUD-93100.

Respondents: State or Local Governments and Non-Profit Institutions.

Frequency of Submission: On Occasion.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
HUD-93100	55,000		1.25		.25		17,187

Total Estimated Burden Hours: 17,187.
Status: Reinstatement.

Contact: Florence B. Brooks, HUD, (202) 755-6640, Scott Jacobs, OMB, (202) 395-6880.

Dated: June 21, 1990.

[FR Doc. 90-15148 Filed 6-28-90; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. N-90-3110]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.
ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comment on the subject proposals.

ADDRESSES: Interested persons are invited to submit comment regarding these proposals. Comments should refer to the proposal by name and should be sent to: Scott Jacobs, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management

Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 708-0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals for the collections of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notices list the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total numbers of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: June 13, 1990.

John T. Murphy,

Director, Information Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Rent Adjustments for Section 8 Assisted Housing; Retroactive Housing Payments, FR-2745.

Office: Housing.

Description of the Need for the Information and its Proposed Use: Under section 801 of the HUD Reform Act of 1989, a one-time contract rent determination and a calculation of retroactive payments must be made for certain owners in the Section 8 Housing Assistance Payments Program. Collecting this information from owners, State agencies, and PHAs is necessary for the Department to be in compliance with this legislation.

Form Number: None.

Respondents: State or Local Governments, Businesses or Other For-Profit, Federal Agencies or Employees, and Non-Profit Institutions.

Frequency of Submission: One-time.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Programs Under Parts 880, 881, 883, 884, 885, 886:							
Owner Request for Rent Determination; Claim for Payment	583		2		.25		292
Owner Documentation of Occupancy Rate	200		1		1.5		300
State Agencies as Contract Administrators-Initial Notification; Notification of Eligibility; Processing of Payments	30		3		.5		45
State Agency Determination of Occupancy Rates; Calculation of Retroactive Payments	30		2		.75		45
Moderate Rehabilitation Program:							
Owner Request for Rent Determinations; Statement of Basis for Certification; Claim for Payment	250		1		.75		188
PHAs as Contract Administrators-Initial Notification; Notification of Eligibility; Processing of Payment	250		3		.5		375
PHA Determination of Occupancy Rates; Calculation of Retroactive Payments	250		2		.75		375

Total Estimated Burden Hours: 1,620
Status: New.

Contact: Michelle McLaurin, HUD,
(202) 708-3944, Scott Jacobs, OMB, (202)
395-6880.

Dated: June 13, 1990.

**Notice of Submission of Proposed
Information Collection to OMB**

Proposal: Study-Assessment of HUD-

**Insured Multifamily Rental Housing
Stock.**

*Office: Policy Development and
Research.*

*Description of the Need for the
Information and its Proposed Use: The
purpose of this study is to generate an
accurate information data base that will
enable the Department to anticipate and
systematically assess ongoing policy*

*issues as they relate to HUD-insured
multifamily rental housing inventory.*

Form Number: None.

*Respondents: State or Local
Governments, Businesses or Other For-
Profit, Federal Agencies or Employees,
Non-Profit Institutions, and Small
Businesses.*

*Frequency of Submission: One-Time.
Reporting Burden:*

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Owner/Manager Form:							
Manager	600		1		1.5		900
Owner and/or Designee	600		1		1.0		600
Physical Inspections:							
Manager or Agent	600		1		8.0		4,800
Market Valuation:							
Public Officials	600		1		0.5		300
PHA Section 8 Directors	600				0.5		300
Real Estate Professionals and Other Community-based Experts	2,400		1		0.5		1,200

Total Estimated Burden Hours: 8,100.
Status: New.

Contact: Laurent Hodes, HUD, (202)
708-0335, Scott Jacobs, OMB, (202) 395-
6880.

Dated: June 13, 1990.

[FR Doc. 90-15149 Filed 6-28-90; 8:45 am]

BILLING CODE 4210-01-12

[Docket No. N-90-3115]

**Submission of Proposed Information
Collection to OMB**

AGENCY: Office of Administration, HUD.
ACTION: Notice.

SUMMARY: The proposed information
collection requirement described below
has been submitted to the Office of
Management and Budget (OMB) for
review, as required by the Paperwork
Reduction Act. The Department is
soliciting public comments on the
subject proposal.

ADDRESSES: Interested persons are
invited to submit comments regarding
this proposal. Comments should refer to
the proposal by name and should be
sent to: Scott Jacobs, OMB Desk Officer,
Office of Management and Budget, New
Executive Office Building, Washington,
DC 20503.

FOR FURTHER INFORMATION CONTACT:
David S. Cristy, Reports Management
Officer, Department of Housing and
Urban Development, 451 7th Street,
Southwest, Washington, DC 20410,
telephone (202) 708-0050. This is not a
toll-free number. Copies of the proposed
forms and other available documents
submitted to OMB may be obtained
from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The
Department has submitted the proposal
for the collection of information, as
described below, to OMB for review, as
required by the Paperwork Reduction
Act (44 U.S.C. chapter 35).

The Notice lists the following
information: (1) The title of the

information collection proposal; (2) the
office of the agency to collect the
information; (3) the description of the
need for the information and its
proposed use; (4) the agency form
number, if applicable; (5) what members
of the public will be affected by the
proposal; (6) how frequently information
submissions will be required; (7) an
estimate of the total numbers of hours
needed to prepare the information
submission including number of
respondents, frequency of response, and
hours of response; (8) whether the
proposal is new or an extension,
reinstatement, or revision of an
information collection requirement; and
(9) the names and telephone numbers of
an agency official familiar with the
proposal and of the OMB Desk Officer
for the Department.

Authority: Section 3507 of the Paperwork
Reduction Act, 44 U.S.C. 3507; Section 7(d) of
the Department of Housing and Urban
Development Act, 42 U.S.C. 3535(d).

Dated: June 25, 1990.

John T. Murphy,

Director, Information Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: 24 CFR part 813. Definition of Income Limits, Rent and Reexamination of Family Income for the

Section 8 Housing Assistance Payments Program.

Office: Housing.

Description of the Need for the Information and its Proposed Use: Project owners, PHAs, and IHAs may submit request for exceptions in order to admit lower income families who are not very low-income, to units covered by the income limits in Section 323 of the Omnibus Budget Reconciliation Act

of 1981. The Department will authorize exceptions on the basis of these requests.

Form Number: None.

Respondents: State or Local Governments, Businesses or Other For-Profit, and Non-Profit Institutions.

Frequency of Submission: On Occasion.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Annual Reporting	606		1		1		606

Total Estimated Burden Hours: 606.

Status: Extension.

Contact: James McJimpsey, HUD, (202) 708-4162, Scott Jacobs, OMB, (202) 395-6880.

Dated: June 25, 1990.

[FR Doc. 90-15156 Filed 6-28-90; 8:45 am]

BILLING CODE 4210-01-M

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-90-3111; FR-2846-N-01]

Supplemental Assistance for Facilities to Assist the Homeless (SAFAH); Announcement of Funding Awards

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development

Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department in a competition for funding under the Supplemental Assistance for Facilities to Assist the Homeless (SAFAH) program. The announcement contains the names and addresses of the award winners and the amounts of the awards.

EFFECTIVE DATE: June 29, 1990.

FOR FURTHER INFORMATION CONTACT: James Forsberg, Director, Special Needs Assistance Program, Department of Housing and Urban Development, Room 7262, 451 Seventh Street SW., Washington, DC 20410; (202) 708-4300; TDD for the hearing- and speech-impaired (202) 708-2565. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The SAFAH program was authorized by the Stewart B. McKinney Homeless Assistance Act (Pub. L. 100-77, approved July 22, 1987), as amended by the Stewart B. McKinney Homeless Assistance Amendments Act (Pub. L. 100-628, approved Nov. 7, 1988). The purpose of the program is to provide: (1)

Comprehensive assistance for particularly innovative programs for, or alternative methods of, meeting the immediate and long-term needs of the homeless, and (2) assistance to cover the costs in excess of assistance provided under the Emergency Shelter Grants and Supportive Housing Demonstration programs. Eligible applicants are State and local governments, tribes, or private nonprofit organizations.

On January 30, 1990 (55 FR 3170), HUD announced the availability of \$10,848,973 in SAFAH funds for interest-free advances and grants.

Applications, which were due April 2, 1990, were scored and ranked on criteria contained in 24 CFR part 579. A total of \$10.8 million was awarded to 20 homeless shelter providers in 17 communities. In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101-235, approved December 15, 1989), the Department is publishing the names, addresses, and amounts of those awards, as follows:

	Recipient	Award amount
1	Daystar House, Inc., Cullman, AL, Ms. Mary D. Hughes, Director of Operations, 809 3rd Street, SE., Cullman, AL 35055	\$46,644
2	Berkeley Oakland Support Services, Berkeley, CA, Ms. Boona Cheema, Executive Director, 2100 Martin Luther King Jr. Way, Berkeley, CA 94704	472,275
3	Catholic Charities of San Francisco County, CA, Ms. Mary L. Goeke, Executive Director, 1049 Market St., Suite 200, San Francisco, CA 94103	746,656
4	Community of Hope, Washington, DC, Mr. Tom Nees, Executive Director, 1417 Belmont St., NW., Washington, DC 20009	147,000
5	Green Door, Inc., Washington, DC, Ms. Judith Johnson, Executive Director, 1623 16th St., NW., Washington, DC 20009	360,000
6	Associated Catholic Charities, Washington, DC, Ms. Charlotte King, Executive Director, 1133 15th St., NW., Washington, DC 20005	398,789
7	Coalition for the Homeless, Inc., Washington, DC, Mr. Jack M. White, Jr., Executive Director, 2824 Sherman Ave., NW., Washington, DC 20001	905,163
8	Hawkeye Area Community Action Program, Inc., Cedar Rapids, IA, Mr. Don W. Maniccia, Executive Director, 320 11th Ave., SE., Cedar Rapids, IA 52406	1,000,000
9	YWCA of Lewiston-Clarkston, Inc., Lewiston, ID, Ms. Tina Alexanderson, Executive Director, 300 Main Street, Lewiston, ID 83501	301,063
10	Public Action to Deliver Shelter, Inc., Aurora, IL, Sr. Rose Marie Lorentzen BVM, Executive Director, 659 S. River St., Aurora, IL 60506	816,690
11	Shreveport SRO, Inc., Shreveport, LA, Ms. Melissa Flournoy, President, P.O. Box 1808, Shreveport, LA 71162	979,148
12	Elizabeth Stone House, Inc., Jamaica Plain, MA, Ms. Deborah Linnell, Clerk, P.O. Box 15, Jamaica Plain, MA 02130	259,000
13	Wayne County, Detroit, MI, Mr. Edward H. McNamara, County Executive, 600 Randolph, Detroit, MI 48226-2831	1,000,000
14	Family Self Help Center, Joplin, MO, Ms. Susan T. Buchanan, Executive Director, 1809 Connor, Joplin, MO 64802	404,210
15	Warren-Hamilton Housing Corporation, Indian Lake, NY, Ms. Nancy Berkowitz, Executive Director, P.O. Box 695, Indian Lake, NY 12842	368,014
16	Greyston Family Inn, Yonkers, NY, Ms. Sandra Holmes, Executive Director, 114 Woodworth Ave., Yonkers, NY 10701	730,210
17	WSOS Community Action Commission, Inc., Fremont, OH, Mr. Donald F. Stricker, Chief Executive Officer, 109 S. Fremont St., Fremont, OH 43420	196,500

	Recipient	Award amount
18	Lane County, Eugene, OR, Mr. James R. Johnson, County Administrator, 125 East 8th Avenue, Eugene, OR 97401	468,763
19	State of Rhode Island and Providence Plantations, Providence, RI, Mr. Charles R. Mansolillo, Director, State House, Providence, RI 02903	724,000
20	Volunteers of America, Knoxville, TN, Mr. Tom Salter, Executive Director, 414 W. Church Ave., Knoxville, TN 37902	524,848

Dated: June 22, 1990.

Anna Kondratas,
Assistant Secretary for Community Planning
and Development.

[FR Doc. 90-15152 Filed 6-28-90; 8:45 am]

BILLING CODE 4210-29-M

[Docket No. N-90-1917; FR-2606-N-78]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized and underutilized Federal property determined by HUD to be suitable for possible use for facilities to assist the homeless.

EFFECTIVE DATE: June 29, 1990.

ADDRESSES: For further information, contact James Forsberg, room 7262, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708-4300; TDD number for the hearing- and speech-impaired (202) 708-2565. (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 Court Order in *National Coalition for the Homeless v. Veterans Administration*, No. 88-2503-OG (D.D.C.), HUD is publishing this Notice to identify Federal buildings and real property that HUD has determined are suitable for use for facilities to assist the homeless. The properties were identified from information provided to HUD by Federal landholding agencies regarding unutilized or underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property.

The Order requires HUD to take certain steps to implement section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), which sets out a process by which unutilized and underutilized Federal properties may be made available to the homeless. Under section 501(a), HUD is to collect information from Federal landholding agencies about such properties and then to determine, under criteria developed in consultation with the Department of

Health and Human Services (HHS) and the Administrator of General Services (GSA), which of those properties are suitable for facilities to assist the homeless. The Order requires HUD to publish, on a weekly basis, a Notice in the Federal Register identifying the properties determined as suitable.

The properties identified in this Notice may ultimately be available for use by the homeless, but they are first subject to review by the landholding agencies pursuant to the court's Memorandum of December 14, 1988 and section 501(b) of the McKinney Act. Section 501(b) requires HUD to notify each Federal agency about any property of such agency that has been identified as suitable. Within 30 days from receipt of such notice from HUD, the agency must transmit to HUD: (1) Its intention to declare the property excess to the agency's need or to make the property available on an interim basis for use as facilities to assist the homeless; or (2) a statement of the reasons that the property cannot be declared excess or made available on an interim basis for use as facilities to assist the homeless.

First, if the landholding agency decides that the property cannot be declared excess or made available to the homeless for use on an interim basis the property will no longer be available.

Second, if the landholding agency declares the property excess to the agency's need, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law and the December 12, 1988 Order and December 14, 1988 Memorandum, subject to screening for other Federal use.

Homeless assistance providers interested in any property identified as suitable in this Notice should send a written expression of interest to HHS, addressed to Judy Breitman, Division of Health Facilities Planning, U.S. Public Health Service, HHS, room 17A-10, 5600 Fishers Lane, Rockville, MD 20857; (301) 443-2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit such written expressions of interest within 30 days from the date of this Notice. For

complete details concerning the timing and processing of applications, the reader is encouraged to refer to HUD's Federal Register Notice on June 23, 1989 (54 FR 26421), as corrected on July 3, 1989 (54 FR 27975).

For more information regarding particular properties identified in this Notice (i.e., acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: U.S. Army: HQ-DA, Attn: DAEN-ZCL-P-Robert Conte; room 1E671 Pentagon, Washington, DC 20360-2600; (202) 693-4583; Corps of Engineers: Bob Swieconeck, HQ-US Army Corps of Engineers, Attn: CERE-MN, 20 Massachusetts Avenue NW., Washington, DC 20415-1000; (202) 272-1750; GSA: Ronald Rice, Federal Property Resources Services, GSA, 18th and F Streets NW., Washington, DC 20405; (202) 501-0067. (These are not toll-free numbers.)

Dated: June 21, 1990.

Paul Roitman Bardack,
Deputy Assistant Secretary for Program
Policy Development and Evaluation.

Suitable Land (by State)

Indiana

Cecil M. Harden Lake Project
Rockville, IN, Co: Parke
Location: Route 57 at intersection w/county road 910E.
Landholding Agency: COE
Property Number: 319011689
Status: Unutilized
Comment: 2.68 acres; narrow triangular shaped area of land.

Texas

Land Saginaw Army Aircraft Plt
Saginaw, TX, Co: Tarrant
Landholding Agency: Army
Property Number: 219014814
Status: Unutilized
Comment: 154.3 acres; includes buildings/ structures/parking and air strip.

Suitable Buildings (by State)

Maryland

Bldg. 197
Fort George G. Meade
1st and Chisholm Streets
Fort Meade, MD, Co: Anne Arundel
Landholding Agency: Army
Property Number: 219014848
Status: Unutilized
Comment: 7670 sq. ft.; 2 story wood frame; needs rehab; secured area with alternate access; possible asbestos.

Bldg. 508
Fort George G. Meade
Llewellyn Street
Fort Meade, MD, Co: Anne Arundel
Landholding Agency: Army
Property Number: 219014849
Status: Unutilized
Comment: 4720 sq. ft.; 2 story wood frame;
needs rehab; most recent use—storage;
secured area with alternate access;
possible asbestos.

Bldg. 4461
Fort George G. Meade
Llewellyn Avenue
Fort Meade, MD, Co: Anne Arundel
Landholding Agency: Army
Property Number: 219014850
Status: Unutilized
Comment: 16594 sq. ft.; 2 story concrete
block; needs rehab; secured area with
alternate access; possible asbestos; most
recent use—branch exchange.

Bldg. 3187
Fort George G. Meade
Mac Arthur Road
Fort Meade, MD, Co: Anne Arundel
Landholding Agency: Army
Property Number: 219014851
Status: Unutilized
Comment: 1914 sq. ft.; 1 story wood frame;
needs rehab; secured area with alternate
access; possible asbestos.

Bldg. 6599
Fort George G. Meade
Zimborski Road
Fort Meade, MD, Co: Anne Arundel
Landholding Agency: Army
Property Number: 219014852
Status: Unutilized
Comment: 4173 sq. ft.; 1 story wood frame;
needs rehab; secured area with alternate
access.

Bldg. 378
Fort George G. Meade
Behind Bldg. 368 on 5½ Street
Fort Meade, MD, Co: Anne Arundel
Landholding Agency: Army
Property Number: 219014853
Status: Underutilized
Comment: 1144 sq. ft.; 1 story wood frame;
secured area with alternate access;
possible asbestos; most recent use—
storage.

Bldg. 373
Fort George G. Meade
Behind Bldg. 372 on Chamberlain Street
Fort Meade, MD, Co: Anne Arundel
Landholding Agency: Army
Property Number: 219014854
Status: Underutilized
Comment: 1144 sq. ft.; 1 story wood frame;
secured area with alternate access;
possible asbestos; most recent use—
storage.

Bldg. 2815
Fort George G. Meade
Chisholm Street
Fort Meade, MD, Co: Anne Arundel
Landholding Agency: Army
Property Number: 219014855
Status: Unutilized
Comment: 2208 sq. ft.; 1 story wood frame;
needs rehab; secured area with alternate
access; possible asbestos.

Bldg. 267
Fort George G. Meade
3rd Street
Fort Meade, MD, Co: Anne Arundel
Landholding Agency: Army
Property Number: 219014856
Status: Unutilized
Comment: 2208 sq. ft.; 1 story wood frame;
needs rehab; secured area with alternate
access; possible asbestos.

Bldg. T-6357
Fort George G. Meade
Hodges Street
Fort Meade, MD, Co: Anne Arundel
Landholding Agency: Army
Property Number: 219014857
Status: Unutilized
Comment: 2360 sq. ft.; 1 story wood frame;
needs rehab; secured area with alternate
access; possible asbestos.

Bldg. 8205
Fort George G. Meade
Rock Avenue
Fort Meade, MD, Co: Anne Arundel
Landholding Agency: Army
Property Number: 219014858
Status: Unutilized
Comment: 2441 sq. ft.; 1 story wood frame;
secured area with alternate access;
possible asbestos; most recent use—
storage.

Bldg. 8212
Fort George G. Meade
Rock Avenue
Fort Meade, MD, Co: Anne Arundel
Landholding Agency: Army
Property Number: 219014859
Status: Unutilized
Comment: 2220 sq. ft.; 1 story wood frame;
needs rehab; secured area with alternate
access; most recent use—storage.

Bldg. 2816
Fort George G. Meade
Chisholm Street
Fort Meade, MD, Co: Anne Arundel
Landholding Agency: Army
Property Number: 219014860
Status: Unutilized
Comment: 1676 sq. ft.; 1 story wood frame;
secured area with alternate access;
possible asbestos; most recent use—
storage.

Bldg. 2817
Fort George G. Meade
Chisholm Street
Fort Meade, MD, Co: Anne Arundel
Landholding Agency: Army
Property Number: 219014861
Status: Underutilized
Comment: 3663 sq. ft.; 1 story wood frame;
possible asbestos; secured area with
alternate access; most recent use—storage.

Bldg. T-356
Fort George G. Meade
5½ Street
Fort Meade, MD, Co: Anne Arundel
Landholding Agency: Army
Property Number: 219014862
Status: Unutilized
Comment: 4720 sq. ft.; 2 story wood frame;
needs rehab; secured area with alternate
access; possible asbestos; most recent
use—storage.

Bldg. 2229
Fort George G. Meade
Chisholm Street

Fort Meade, MD, Co: Anne Arundel
Landholding Agency: Army
Property Number: 219014863
Status: Unutilized
Comment: 4720 sq. ft.; 2 story wood frame;
needs rehab; secured area with alternate
access; possible asbestos.

Bldg. 649
Fort George G. Meade
Chamberlain Avenue
Fort Meade, MD, Co: Anne Arundel
Landholding Agency: Army
Property Number: 219014864
Status: Underutilized
Comment: 2594 sq. ft.; 1 story wood frame;
possible asbestos; secured area with
alternate access; needs rehab; most recent
use—storage.

Bldg. 583
Fort George G. Meade
Chamberlain Avenue
Fort Meade, MD, Co: Anne Arundel
Landholding Agency: Army
Property Number: 219014865
Status: Unutilized
Comment: 3245 sq. ft.; 1 story wood frame;
needs rehab; possible asbestos; secured
area with alternate access.

Bldg. 543
Fort George G. Meade
Chamberlain Avenue
Fort Meade, MD, Co: Anne Arundel
Landholding Agency: Army
Property Number: 219014866
Status: Unutilized
Comment: 4720 sq. ft.; 2 story wood frame;
possible asbestos; needs rehab; secured
area with alternate access.

Bldg. 509
Fort George G. Meade
Llewellyn Street
Fort Meade, MD, Co: Anne Arundel
Landholding Agency: Army
Property Number: 219014867
Status: Unutilized
Comment: 4720 sq. ft.; 2 story wood frame;
needs rehab; possible asbestos; secured
area with alternate access; most recent
use—storage.

Bldg. 369
Fort George G. Meade
Chisholm Street
Fort Meade, MD, Co: Anne Arundel
Landholding Agency: Army
Property Number: 219014868
Status: Unutilized
Comment: 2208 sq. ft.; 1 story wood frame;
needs rehab; secured area with alternate
access; possible asbestos.

Bldg. 364
Fort George G. Meade
5½ Street
Fort Meade, MD, Co: Anne Arundel
Landholding Agency: Army
Property Number: 219014869
Status: Unutilized
Comment: 4720 sq. ft.; 2 story wood frame;
needs rehab; secured area with alternate
access; possible asbestos; most recent
use—storage.

Bldg. T-359
Fort George G. Meade
5½ and Chisholm Streets
Fort Meade, MD, Co: Anne Arundel

Landholding Agency: Army
Property Number: 219014870
Status: Unutilized
Comment: 2208 sq. ft.; 1 story wood frame; needs rehab; secured area with alternate access; possible asbestos.

Bldg. 357
Fort George G. Meade
5½ Street
Fort Meade, MD, Co: Anne Arundel
Landholding Agency: Army
Property Number: 219014871
Status: Unutilized
Comment: 4720 sq. ft.; 2 story wood frame; needs rehab; secured area with alternate access; possible asbestos; most recent use—storage.

Bldg. 353
Fort George G. Meade
5½ Street
Fort Meade, MD, Co: Anne Arundel
Landholding Agency: Army
Property Number: 219014872
Status: Unutilized
Comment: 4720 sq. ft.; 2 story wood frame; possible asbestos; secured area with alternate access.

Bldg. 269
Fort George G. Meade
Chisholm Street
Fort Meade, MD, Co: Anne Arundel
Landholding Agency: Army
Property Number: 219014873
Status: Underutilized
Comment: 3537 sq. ft.; 1 story wood frame; possible asbestos; needs rehab; secured area with alternate access; most recent use—storage.

Bldg. 2408
Fort George G. Meade
Ernie Pyle Street
Fort Meade, MD, Co: Anne Arundel
Landholding Agency: Army
Property Number: 219014874
Status: Unutilized
Comment: 4720 sq. ft.; 2 story wood frame; needs rehab; secured area with alternate access; possible asbestos.

Bldg. 2413
Fort George G. Meade
Behind Bldg 2423—Ernie Pyle Street
Fort Meade, MD, Co: Anne Arundel
Landholding Agency: Army
Property Number: 219014875
Status: Unutilized
Comment: 4720 sq. ft.; 2 story wood frame; needs rehab; secured area with alternate access; possible asbestos.

Bldg. 2417
Fort George G. Meade
Behind Bldg. 2428 off Ernie Pyle Street
Fort Meade, MD, Co: Anne Arundel
Landholding Agency: Army
Property Number: 219014876
Status: Unutilized
Comment: 4720 sq. ft.; 2 story wood frame; needs rehab; secured area with alternate access; possible asbestos; most recent use—storage.

Bldg. 2418
Fort George G. Meade
Behind Bldg 2427 off Ernie Pyle Street
Fort Meade, MD, Co: Anne Arundel
Landholding Agency: Army
Property Number: 219014877

Status: Unutilized
Comment: 4720 sq. ft.; 2 story wood frame; needs rehab; secured area with alternate access; possible asbestos; most recent use—storage.

Bldg. 2419
Fort George G. Meade
Behind Bldg 2427—Ernie Pyle Street
Fort Meade, MD, Co: Anne Arundel
Landholding Agency: Army
Property Number: 219014878
Status: Underutilized
Comment: 2441 sq. ft.; 1 story wood frame; needs rehab; possible asbestos; secured area with alternate access; most recent use—arms rooms.

Bldg. 2425
Fort George G. Meade
Ernie Pyle Street
Fort Meade, MD, Co: Anne Arundel
Landholding Agency: Army
Property Number: 219014879
Status: Unutilized
Comment: 1843 sq. ft.; 1 story wood frame; needs rehab; secured area with alternate access; possible asbestos.

Bldg. 2426
Fort George G. Meade
Ernie Pyle Street
Fort Meade, MD, Co: Anne Arundel
Landholding Agency: Army
Property Number: 219014880
Status: Unutilized
Comment: 7670 sq. ft.; 1 story wood frame; needs rehab; secured area with alternate access; possible asbestos.

Bldg. 2427
Fort George G. Meade
Ernie Pyle Street
Fort Meade, MD, Co: Anne Arundel
Landholding Agency: Army
Property Number: 219014881
Status: Unutilized
Comment: 8150 sq. ft.; 2 story wood frame; needs rehab; secured area with alternate access; possible asbestos.

Bldg. 2840
Fort George G. Meade
Ernie Pyle Street
Fort Meade, MD, Co: Anne Arundel
Landholding Agency: Army
Property Number: 219014882
Status: Unutilized
Comment: 2250 sq. ft.; 1 story wood frame; needs rehab; possible asbestos; secured area with alternate access.

Bldg. 2847
Fort George G. Meade
Ernie Pyle Street
Fort Meade, MD, Co: Anne Arundel
Landholding Agency: Army
Property Number: 219014883
Status: Unutilized
Comment: 3663 sq. ft.; 1 story wood frame; possible asbestos; secured area with alternate access; most recent use—gym.

Oklahoma

Bldg. T-836
Fort Sill
Corner Macomb Road and Burrell Road
Lawton, OK, Co: Comanche
Landholding Agency: Army
Property Number: 219014840
Status: Unutilized

Comment: 1341 sq. ft.; 1 story wood frame; possible asbestos; most recent use—storage.

Bldg. T-4549
Fort Sill
4549 Bragg Road
Lawton, OK, Co: Comanche
Landholding Agency: Army
Property Number: 219014841
Status: Unutilized
Comment: 3200 sq. ft.; 2 story wood frame; most recent use—headquarters building.

Bldg. T-4919
Fort Sill
4919 Post Road
Lawton, OK, Co: Comanche
Landholding Agency: Army
Property Number: 219014842
Status: Unutilized
Comment: 603 sq. ft.; 1 story mobile home trailer; possible asbestos; needs rehab.

Bldg. 4914
Fort Sill
4914 Post Road
Lawton, OK, Co: Comanche
Landholding Agency: Army
Property Number: 219014843
Status: Unutilized
Comment: 719 sq. ft.; 1 story mobile home trailer; needs rehab; possible asbestos.

Tennessee

Area Q—Housing Area—Q20
Milan Army Ammunition Plant
Milan, TN, Co: Carroll
Landholding Agency: Army
Property Number: 219014790
Status: Underutilized
Comment: 2506 sq. ft.; 2 story wood frame residence.

Texas

Bldg. 2
Saginaw Army Aircraft Plant
Saginaw, TX, Co: Tarrant
Landholding Agency: Army
Property Number: 219014815
Status: Unutilized
Comment: 94606 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 4
Saginaw Army Aircraft Plant
Saginaw, TX, Co: Tarrant
Landholding Agency: Army
Property Number: 219014816
Status: Unutilized
Comment: 1350 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 17
Saginaw Army Aircraft Plant
Saginaw, TX, Co: Tarrant
Landholding Agency: Army
Property Number: 219014817
Status: Unutilized
Comment: 68 sq. ft.; wood and metal frame; subject to sewer pipeline easement; needs rehab; most recent use—guard house.

Bldg. 29
Saginaw Army Aircraft Plant
Saginaw, TX, Co: Tarrant
Landholding Agency: Army
Property Number: 219014818

Status: Unutilized

Comment: 5028 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 30

Saginaw Army Aircraft Plant

Saginaw, TX, Co: Tarrant

Landholding Agency: Army

Property Number: 219014819

Status: Unutilized

Comment: 5323 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 18

Saginaw Army Aircraft Plant

Saginaw, TX, Co: Tarrant

Landholding Agency: Army

Property Number: 219014820

Status: Unutilized

Comment: 9560 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 6

Saginaw Army Aircraft Plant

Saginaw, TX, Co: Tarrant

Landholding Agency: Army

Property Number: 219014821

Status: Unutilized

Comment: 1258 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 7

Saginaw Army Aircraft Plant

Saginaw, TX, Co: Tarrant

Landholding Agency: Army

Property Number: 219014822

Status: Unutilized

Comment: 508 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 8

Saginaw Army Aircraft Plant

Saginaw, TX, Co: Tarrant

Landholding Agency: Army

Property Number: 219014824

Status: Unutilized

Comment: 171 sq. ft.; 2 story wood and metal frame; subject to sewer pipeline easement; needs rehab; most recent use—watch tower.

Bldg. 16

Saginaw Army Aircraft Plant

Saginaw, TX, Co: Tarrant

Landholding Agency: Army

Property Number: 219014825

Status: Unutilized

Comment: 17283 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 19

Saginaw Army Aircraft Plant

Saginaw, TX, Co: Tarrant

Landholding Agency: Army

Property Number: 219014826

Status: Unutilized

Comment: 25399 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 31

Saginaw Army Aircraft Plant

Saginaw, TX, Co: Tarrant

Landholding Agency: Army

Property Number: 219014827

Status: Unutilized

Comment: 1392 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 9

Saginaw Army Aircraft Plant

Saginaw, TX, Co: Tarrant

Landholding Agency: Army

Property Number: 219014828

Status: Unutilized

Comment: 244 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 25

Saginaw Army Aircraft Plant

Saginaw, TX, Co: Tarrant

Landholding Agency: Army

Property Number: 219014829

Status: Unutilized

Comment: 1320 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab; most recent use—fire house.

Bldg. 10

Saginaw Army Aircraft Plant

Saginaw, TX, Co: Tarrant

Landholding Agency: Army

Property Number: 219014830

Status: Unutilized

Comment: 354 sq. ft.; 2 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 26

Saginaw Army Aircraft Plant

Saginaw, TX, Co: Tarrant

Landholding Agency: Army

Property Number: 219014831

Status: Unutilized

Comment: 3518 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 21

Saginaw Army Aircraft Plant

Saginaw, TX, Co: Tarrant

Landholding Agency: Army

Property Number: 219014832

Status: Unutilized

Comment: 65 sq. ft.; wood and metal frame; subject to sewer pipeline easement; needs rehab; most recent use—guard house.

Bldg. 22

Saginaw Army Aircraft Plant

Saginaw, TX, Co: Tarrant

Landholding Agency: Army

Property Number: 219014833

Status: Unutilized

Comment: 50581 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 27

Saginaw Army Aircraft Plant

Saginaw, TX, Co: Tarrant

Landholding Agency: Army

Property Number: 219014834

Status: Unutilized

Comment: 228 sq. ft.; 2 story wood and metal frame; subject to sewer pipeline easement; needs rehab; most recent use—control tower.

Bldg. 32

Saginaw Army Aircraft Plant

Saginaw, TX, Co: Tarrant

Landholding Agency: Army

Property Number: 219014835

Status: Unutilized

Comment: 19546 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Portion of Federal Building

102 W. Lamar Street

McKinney, TX, Co: Collin

Landholding Agency: GSA

Property Number: 549010065

Status: Excess

Comment: 8508 sq. ft.—1st floor; 5151 sq. ft.—2nd floor; possible GSA NO. 7-G-TX-1003

Universe of Properties:

Total.....	100
Suitable.....	64
Suitable Buildings.....	62
Suitable Land.....	2
Unsuitable.....	36
Unsuitable Buildings.....	33
Unsuitable Land.....	3
Number of Resubmissions.....	0

[FR Doc. 90-14965 Filed 6-28-90; 8:45 am]

BILLING CODE 4210-29-M

DEPARTMENT OF THE INTERIOR**Bureau of Indian Affairs****Indian Gaming**

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of approved Tribal-State Compacts.

SUMMARY: Pursuant to 25 U.S.C. 2710, of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100-497), the Secretary of the Interior shall publish in the *Federal Register* notice of approved Tribal-State Compacts for the purposes of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority has approved Tribal-State Compacts between the following tribes and states: the Viejas Band of Mission Indians and the State of California, executed on 4/3/90, and the Mille Lacs Band of Chippewa Indians and the State of Minnesota, executed on 6/5/90.

ADDRESSES: Office of Legislative Affairs, Bureau of Indian Affairs, Department of the Interior, MS-4641, 1849 C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Joel Starr, Bureau of Indian Affairs, Washington, DC, (202) 208-5706; Michael Cox, Office of the Solicitor—Indian Affairs, Washington, DC, (202) 208-4361.

Dated: June 25, 1990.

Stephen A. Gleason,
Acting Assistant Secretary—Indian Affairs,
[FR Doc. 90-15154 Filed 6-28-90; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

(NM-030-00-3110-9999)

Las Cruces District Advisory Council Meeting**AGENCY:** Bureau of Land Management, Interior.**ACTION:** Notice of meeting.**SUMMARY:** The meeting will include a tour of Ft. Cummings, northeast of Deming, New Mexico off of State Highway 26. The itinerary and agenda are:

1. 10 a.m.—Meet at the intersection of State Highway 26 and State Highway 180.
2. 10:15 a.m.—Tour of Ft. Cummings. Leave tour area for Lake Valley School at approximately 11:15 a.m.
3. 12 p.m.—Lunch at Lake Valley School.
4. 1 p.m.—Meeting begins at Lake Valley School with review and approval of minutes from previous meeting.
5. 1:15 p.m.—Discussion of Lake Valley School Historic Site:
 - A. Ownership.
 - B. Present Management.
 - C. Options for Preservation; Use.
6. 1:45 p.m.—Discussion on legislation for Boots and Saddles.
7. 2 p.m.—Discuss proposal of having a 1990 Ft. Cummings Conference.
8. 2:15 p.m.—Poney Hills Rock Art Site: significance, etc.
9. 2:45 p.m.—Discussion of off-road vehicle conflicts in Alamogordo.
10. 3 p.m.—Public Comment.
11. 3:30 p.m.—Adjourn.

DATES: Board members and interested parties should meet at the intersection of State Highway 26 and State Highway 180, northeast of Deming, New Mexico at 10 a.m., Tuesday, July 31, 1990.

FOR FURTHER INFORMATION CONTACT: H. James Fox, District Manager, Las Cruces District Office, Bureau of Land Management, 1800 Marquess, Las Cruces, New Mexico 88005 or at (505) 525-8228.

Dated: June 22, 1990.

Robert R. Calkins,

Associate District Manager.

[FR Doc. 90-15142 Filed 6-28-90; 8:45 am]

BILLING CODE 4310-FB-M

[OR-015-00-4212-13: GPO-277]

Realty Action Exchange of Public and Private Lands in Lake and Harney Counties, Oregon OR 45456

The following described lands have been determined to be suitable for disposal by exchange under section 206

of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

T. 32 S., R. 23 E., W.M., Oregon

Section 24: E½NE¼.

T. 32 S., R. 24 E., W.M., Oregon

Section 19: All.

Section 20: All.

Section 21: All.

Section 22: SW¼NW¼, W¼SW¼.

Section 28: NE¼, W¼, N¼SE¼.

Section 29: All.

Section 30: Lot 1, NE¼, NE¼NW¼,

E½SE¼.

Section 32: E½, NW¼, NE¼SW¼.

Section 33: W¼.

T. 33 S., R. 24 E., W.M., Oregon

Section 4: Lot 4, SW¼NW¼, NW¼SW¼.

Section 5: Lots 1 and 2, S½NE¼, N¼SE¼.

comprising 4,790.44 acres of public land.

In exchange for these lands, the United States will acquire the following described lands from Lynch Brothers:

T. 36 S., R. 24 E., W.M., Oregon

Section 19: E½ of Lot 1, E½, E½W¼.

T. 37 S., R. 23 E., W.M., Oregon

Section 25: NE¼NE¼.

T. 37 S., R. 24 E., W.M., Oregon

Section 30: Lots 3 and 4, E½SW¼: 31.

Section 31: NE¼NE¼.

T. 38 S., R. 23 E., W.M., Oregon

Section 3: SW¼.

Section 5: Lots 3 and 4, SW¼NE¼,

S½NW¼, SW¼, W¼SE¼.

Section 8: S½.

Section 9: N¼NE¼, SW¼NE¼, E½NW¼,

NW¼NW¼, W¼, SW¼SE¼, SE¼SE¼.

Section 10: SE¼SE¼.

Section 11: SW¼SW¼.

Section 14: SW¼NE¼.

Section 15: E½NE¼, SW¼NE¼,

SE¼NW¼, NE¼SW¼, W¼SE¼.

Section 18: E½NE¼, NW¼NE¼,

NE¼SE¼.

Section 17: S½NE¼, E½SE¼, SW¼SE¼.

Section 21: NW¼SW¼.

Section 22: W¼NE¼, E½NW¼.

Section 36: NE¼NE¼.

T. 38 S., R. 24 E., W.M., Oregon

Section 5: SW¼NW¼, SW¼.

Section 6: SE¼NE¼, N¼SE¼, SE¼SE¼.

comprising 3,536.09 acres of private land.

The purpose of this exchange is to acquire the non-federal lands which are considered of high public value in terms of recreation and wildlife habitat. The land to be acquired lies within an area heavily used by outdoor recreationists and would compliment the Bureau's Wildlife Management Program. The public interest will be served by completing the exchange.

The value of the lands to be exchanged are considered equal; however, if equalization of values is necessary it will be achieved either by acreage adjustment or payment to the United States by Lynch Brothers of funds in an amount not to exceed 25% of the total value of the lands to be transferred out of Federal ownership.

The land to be transferred from the United States will be subject to the

following reservations, terms and conditions.

Reservations:

(1) A right-of-way thereon for ditches or canals constructed by the authority of the United States under the Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

(2) All minerals in or under the following described lands including, without limitation, substances subject to disposition under the general mining laws, the general mineral leasing laws, the Materials Act and the Geothermal Steam Act.

T. 32 S., R. 24 E., W.M., Oregon

Section 20: W½E½, NE¼SE¼.

Section 28: W½NE¼, E½NW¼, NW¼

NW¼SE¼.

Section 32: S½SW¼SE¼, SE¼SE¼.

Subject to:

(1) Those rights for road purposes pursuant to BLM right-of-way OR 45517, 60 feet in width, issued under section 507 of the Federal Land Policy and Management Act of October 21, 1976; and

(2) Those rights for reservoir purposes pursuant to BLM right-of-way OR 45518 issued under section 507 of the Federal Land Policy and Management Act of October 21, 1976.

Publication of this notice segregates the public lands from operation under the public land and mining laws for a period of two (2) years from the date of first publication. The segregative effect of the notice of realty action on the public lands shall terminate upon issuance of patent or other document of conveyance to such lands, upon publication in the Federal Register of a termination of the segregation or two (2) years from the date of its publication, whichever occurs first.

Further information concerning the exchange, including the Environmental Assessment is available for review at the Bureau of Land Management, Lakeview Resource Area Office, 1000 South Ninth Street, Lakeview, Oregon 97630, telephone (503) 947-2177.

For a period of forty-five (45) days from the date of first publication, interested parties may submit comments to the Lakeview District Manager, Bureau of Land Management at the above address. Objections will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of Interior.

Dated: June 21, 1990.

Terry H. Sodorff,

Acting Lakeview District Manager.

[FR Doc. 90-15110 Filed 6-28-90; 8:45 am]

BILLING CODE 4310-33-M

Fish and Wildlife Service

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Service's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Service Clearance Officer and the Office of Management and Budget, Paperwork Reduction Project (1018-FWS01), Washington, D.C. 20503, telephone 202-395-7340.

Title: Regulations for Temporary Subsistence Management for Public Lands in Alaska, 50 CFR subchapter H.

OMB Approval Number: N/A.

Abstract: Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA), requires the Secretaries of Interior and Agriculture to provide a preference for rural residents of Alaska to harvest fish and wildlife for subsistence on public lands in the absence of a state program. The State of Alaska's subsistence program was ruled unconstitutional by the Alaska Supreme Court in December 1989; therefore, the Secretaries must implement a program to meet ANILCA requirements.

There are three types of information collection requirements contained in the rules: (1) General adoption of the State subsistence regulations concerning licenses and reporting information concerning harvest data; (2) supplemental permits issued by the administering Federal land managing agency for activities where the State subsistence regulations need to be supplemented to afford resident adequate subsistence opportunities; and (3) an appeal procedure for persons desiring relief from, or changes to the regulations.

Service Form Numbers: N/A.

Frequency: On occasion; annually.

Description of Respondents: Individuals and households.

Estimated Completion Time: Adoption of State requirements—license and reporting of harvest data—8 minutes per response; Federal permit requirements—15 minutes per response; Appeal procedures—Average 4 hours per appeal (agencies anticipate an average of 5 appeals annually).

Annual Responses: 100,000 (adoption of State requirements, 100,000 respondents; Federal permit requirements, 2,000 respondents, and appeal procedure, 5 respondents).

Annual Burden Hours: 13,820.

Service Clearance Officer: James E. Pinkerton, 703-358-1943 Mail Stop—224 Arlington Square, U.S. Fish and Wildlife Service, Washington, DC 20240.

Dated: June 22, 1990.

Leonard P. Tinsley,

Assistant Director—Refuges and Wildlife.

[FR Doc. 90-15160 Filed 6-28-90; 8:45 am]

BILLING CODE 4310-55-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332-282]

Review of Mexico's Recent Trade and Investment Liberalization Measures Phase II: Prospects for Future U.S.-Mexican Trade Relations

AGENCY: United States International Commission.

ACTION: Notice of additional public hearing to be held in McAllen, TX

EFFECTIVE DATE: February 6, 1990.

FOR FURTHER INFORMATION CONTACT: Constance A. Hamilton (202-252-1263), Trade Reports Division, Office of Economics, U.S. International Trade Commission, Washington, DC 20438

Background

Phase II of investigation No. 332-282 will provide a summary of the views of recognized authorities (for example, government officials, scholars, private sector businessmen, and others) on possibilities for the future direction of the U.S.-Mexican bilateral relationship. Such possibilities might include a free trade area, an enhanced dispute settlement mechanism, sectoral approaches, and other options for enhanced bilateral relations. Public hearings were previously held in Las Cruces, New Mexico, on May 5, 1990, and in Tucson, Arizona, on May 8, 1990. The original notice of investigation was published in the Federal Register of November 16, 1989 (54 FR 220).

Public Hearing

An additional public hearing in connection with phase II of this investigation will be held on July 16, 1990 beginning at 9:30 a.m., at the Fairway Resort, South 10th Street at Wichita Avenue, McAllen, Texas. All persons have the right to appear by counsel or in person, to present information, and to be heard. Requests to appear at the public hearing should be filed with the Secretary, United States International Trade Commission, 500 E Street, SW., Washington, DC 20436, no later than noon, July 6, 1990. The deadline for filing prehearing briefs (original and 14 copies) is July 6, 1990.

Written Submissions

Interested persons are invited to submit written statements concerning the matters to be addressed in the phase II report. Commercial or financial information that a party desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection to interested persons by the Office of the Secretary to the Commission. To be assured of consideration by the Commission, written statements relating to the Commission's report should be submitted at the earliest possible date and should be received no later than July 26, 1990. All submissions should be addressed to the Secretary to the Commission at the Commission's office in Washington, DC. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Commission's TDD terminal on (202) 252-1810.

By order of the Commission.

Issued: June 26, 1990.

Kenneth R. Mason,

Secretary.

[FR Doc. 90-15258 Filed 6-28-90; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named

corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

A. 1. Parent corporation and address of principal office: Springs Industries, Inc., 205 North White Street, Fort Mill, South Carolina 29715.

2. Wholly owned subsidiaries which will participate in the operations, and State(s) of incorporation:

(1) Carey-McFall Corporation, incorporated in the State of Delaware, with its principal place of business in Montgomery, Pennsylvania.

(2) Graber Industries, Inc., incorporated in the State of Delaware, with its principal place of business at 7549 Graber Road, Middleton, Wisconsin.

B. 1. Parent corporation and address of principal office: Valley Oil Co., Inc., P.O. Box 12249, 1790 16th Street, Salem, Oregon 97309.

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation:

(i) Delk Aviation Fuels Inc. Salem, Oregon, State of incorporation—Oregon. Norita R. McGee, Secretary.

[FR Doc. 90-15173 Filed 6-28-90; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree

In accordance with Department of Justice policy, 28 CFR 50.7, notice is hereby given that on June 11, 1990, a proposed Consent Decree in *United States v. Reedy Creek Improvement District*, and the State of Florida was lodged with the United States District Court for the Middle District of Florida, Orlando Division. This action is being filed pursuant to the Federal Clean Water Act, 33 U.S.C. 1251 *et seq.*, to resolve alleged violations of effluent discharge limits contained in a National Pollutant Discharge Elimination System ("NPDES") permit issued to the defendant, the Reedy Creek Improvement District ("Reedy Creek").

Pursuant to the proposed Consent Decree, Reedy Creek will design and construct a spray irrigation system designed to eliminate or minimize violation of its NPDES permit. The spray irrigation system shall be completed by May 1, 1990. In addition, Reedy Creek is required to complete construction of a 1000 acre land application system by April 1, 1991, and demonstrate final compliance with the Act and its NPDES permit. During the design and construction of the spray irrigation and

land application systems, Reedy Creek will be required to meet interim effluent limits as set forth in the proposed Consent Decree.

The proposed Consent Decree also requires that Reedy Creek pay a civil penalty of \$375,000 for its past violations of its NPDES permit limits. Should Reedy Creek violate any provision of the proposed Consent Decree, it will be subject to stipulated penalties. Termination of the proposed Decree will occur after Reedy Creek has demonstrated compliance with its final effluent limits for a period of twelve months.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States v. Reedy Creek Improvement District et al.*, D.J. Ref 90-5-1-1-3363.

The proposed Consent Decree may be examined at the Office of the United States Attorney, Middle District of Florida, 501 Florida Building, 80 North Hughey Avenue, Orlando, Florida, 32801, and at the Region IV Office of the Environmental Protection Agency 345 Courtland Street, NE., Atlanta, Georgia 30365. Copies of the Consent Decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, room 1647, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclosed a check in the amount of \$2.80 (10 cents per page reproduction cost) payable to the Treasurer of the United States.

Richard B. Stewart,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 90-15162 Filed 6-28-90; 8:45 am]

BILLING CODE 4410-01-M

Antitrust Division

Notice Pursuant to the National Cooperative Research Act of 1984, Bell Communications Research, Inc.

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), Bell Communications Research, Inc.

("Bellcore") on May 18, 1990 filed a written notification on behalf of Bellcore and Chisso Corporation (hereinafter referred to as "Chisso") simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the joint venture and (2) the nature and objectives of the joint venture. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the joint venture, and its general areas of planned activities, are given below.

Bellcore is a Delaware corporation with its principal place of business at 290 W. Mt. Pleasant Avenue, Livingston, New Jersey 07039.

Chisso is a Japanese corporation having a place of business at 7-3 Marunouchi 2-Chrome, Chiyoda-Ku, Tokyo 100, Japan.

Bellcore and Chisso entered into an agreement effective April 11, 1990 to engage in cooperative research collaboration to better understand the applications for exchange and exchange access services of electron beam resist materials, including demonstrating the feasibility of research concepts by means of experimental materials synthesis, characterization, and use in making experimental prototype devices.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

FR Doc 90-15163 Filed 6-28-90 8:45 am]

BILLING CODE 4410-01-M

Notice Pursuant to the National Cooperative Research Act of 1984; Bell Communications Research, Inc.

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), Bell Communications Research, Inc. ("Bellcore") on May 18, 1990 filed a written notification on behalf of Bellcore and Nippon Telegraph and Telephone Corporation (hereinafter referred to as "NTT") simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the joint venture and (2) the nature and objectives of the joint venture. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the joint venture, and its

general areas of planned activities, are given below.

Bellcore is a Delaware corporation with its principal place of business at 290 W. Mt. Pleasant Avenue, Livingston, New Jersey 07039.

NTT is a Japanese corporation having a place of business at 3-9-11, Midoricho, Musachinoshi, Tokyo 180, Japan.

Bellcore and NTT entered into an agreement effective March 12, 1990 to engage in research collaboration to better understand the applications for exchange and exchange access services of technology and equipment useful for telecommunications services, systems, interfaces and equipment, including but not limited to technology and equipment for broadband telecommunications, optical communications, digital radio communications, network services, telecommunications software, semiconductor and superconductivity technologies, and reliability.

Joseph H. Widmar,
Director of Operations, Antitrust Division.

[FR Doc. 90-15164 Filed 6-28-90; 8:45 am]
BILLING CODE 4410-01-M

Notice Pursuant to the National Cooperative Research Act of 1984; Bell Communications Research, Inc.

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), Bell Communications Research, Inc. ("Bellcore") on May 10, 1990 filed a written notification on behalf of Bellcore and Plessey-UK Ltd. ("Plessey") simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the joint venture and (2) the nature and objectives of the joint venture. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the joint venture, and its general areas of planned activities, are given below.

Bellcore is a Delaware corporation with its principal place of business at 290 W. Mt. Pleasant Avenue, Livingston, New Jersey 07039.

Plessey is a limited liability company of Great Britain having a place of business at Vicarage Lane, Ilford, Essex, IG1 4AQ.

Bellcore and Plessey entered into an agreement effective May 1, 1988 to engage in cooperative research

collaboration to better understand the applications of integrated optoelectronic technology, including advanced high-speed emitter-coupled logic (ecl) processing technology, and technology and equipment useful in circuits and in optical distribution of clock and data signals, for high-speed telecommunications and data processing, and to demonstrate feasibility of research concepts in exchange and exchange access service application by means of experimental prototypes and experimental systems employing such technologies and equipment.

Joseph H. Widmar,
Director of Operations, Antitrust Division.

[FR Doc. 90-15165 Filed 6-28-90; 8:45 am]
BILLING CODE 4410-01-M

Notice Pursuant to the National Cooperative Research Act of 1984; Bell Communications Research, Inc.

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), Bell Communications Research, Inc. ("Bellcore") on May 18, 1990 filed a written notification on behalf of Bellcore and Alcatel N.V. (hereinafter referred to as "ANV") simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the joint venture and (2) the nature and objective of the joint venture. The notification was filed for the purposes of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the joint venture, and its general areas of planned activities, are given below.

Bellcore is a Delaware corporation with its principal place of business at 290 W. Mt. Pleasant Avenue, Livingston, New Jersey 07039.

ANV is a corporation of the Netherlands having a place of business at 33 Rue Emeriau, 75015 Paris, France.

Bellcore and ANV entered into an agreement effective April 1, 1990 to engage in cooperative research of telecommunications concepts, systems, and services to better understand the applications for exchange and exchange access services, including experimental

prototype fabrication for the demonstration of such technology.

Joseph H. Widmar,
Director of Operations, Antitrust Division.
[FR Doc. 90-15166 Filed 6-28-90; 8:45 am]
BILLING CODE 4410-01-M

Notice Pursuant to the National Cooperative Research Act of 1984; CAD Framework Initiative, Inc.

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), CAD Framework Initiative, Inc. ("CFI") on May 15, 1990, filed an additional written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in the membership of CFI. The additional written notification was filed for the purpose of extending the protections of section 4 of the Act, limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

On December 30, 1988, CFI filed its original notification pursuant to section 6(a) of the Act. That filing was amended on February 7, 1989. The Department of Justice published a notice concerning the amended filing in the *Federal Register* pursuant to section 6(b) of the Act on March 13, 1989 (54 FR 10456). A correction to this notice was published on April 20, 1989 (54 FR 16013). On May 17, 1989, CFI filed an additional written notification. The Department published a notice in response to this additional notification on June 22, 1989 (54 FR 26265). A correction to the June 22, 1989 notice was published on August 4, 1989 (54 FR 32141); a further correction was published on August 23, 1989 (54 FR 35091). On August 16, 1989, CFI filed an additional written notification. The Department published a notice in response to this additional notification on September 21, 1989 (54 FR 38912). CFI filed a further additional notification on November 15, 1989. The Department published a notice in response to the further additional notification on January 10, 1990 (55 FR 925). On February 15, 1990 CFI filed an additional written notification. The Department published a notice in response to the further additional notification on April 23, 1990 (55 FR 15295).

The purpose of this notification is to disclose the following changes in the membership of CFI: (1) The addition of corporate members Computervision and Teradyne, Inc.; (2) the addition of associate members Recal-Redac, Inc., Rohini Adhikari, Aart DeGues, and Albert Klosterman; (3) Daisy/Cadnetix

Inc., and GE Aerospace have not renewed their memberships in CFI; (4) Intergraph, Inc. has changed its membership status in CFI from corporate to associate member; (5) EDA Systems, Inc. has merged with Digital Equipment Corporation, Nixdorf Computer AG has merged with Siemens AG, and Silicon Compiler Systems has merged with Mentor Graphics Corporation; (6) Laboratoires de Marcoussis, a division of corporate member Alcatel NV, is no longer listed separately as a corporate member; (7) IMEC, VZW, listed previously as an associate member, is now represented by an individual associate member, R. Van Overstraeten.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 90-15167 Filed 6-28-90; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-22,952]

Wedge Wireline, Inc.; Termination of Certification of Eligibility to Apply for Worker Adjustment Assistance

In the matter of Wedge Wireline, Inc. Odessa, TX and operating out of locations in the following states:

TA-W-22,952A Texas (Except Odessa, Texas)

TA-W-22,952B Louisiana

TA-W-22,952C Oklahoma

In accordance with section 223(d) of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-22,952, TA-W-22,952A, TA-W-22,952B, and TA-W-22,952C investigation regarding termination of certification of eligibility to apply for worker adjustment assistance as prescribed in section 223(d) of the Act.

On July 19, 1989 workers at Wedge Wireline, Incorporated with locations in Texas, Louisiana, and Oklahoma were certified as eligible to apply for trade adjustment assistance. The notice of certification was published in the Federal Register on August 11, 1989 (54 FR 33096-7).

The investigation regarding termination was initiated on May 18, 1990 to determine whether the workers at the subject firm continue to meet the group eligibility requirements of section 222 of the Act. The Notice of Investigation was published in the Federal Register on May 29, 1990 (55 FR 21804). No public hearing was requested and none was held.

Whenever, it becomes evident that any of the Group Eligibility Requirements of section 222 of the Trade Act of 1974 are no longer met, the certification as issued must be revised to include a termination date.

Without regard as to whether the other criteria are satisfied, the investigation reveals that the decreased employment criterion of the Group Eligibility Requirements of the Trade Act of 1974 is no longer being met with respect to workers of Wedge Wireline, Incorporated.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that the total or partial separation of workers at the Texas, Louisiana, and Oklahoma locations Wedge Wireline, Incorporated are no longer attributable to the conditions specified in section 222 of the Trade Act of 1974.

In accordance with section 223(d) of the Act, I hereby revise the certification of July 19, 1989 as follows:

All workers of Wedge Wireline, Incorporated, in Texas, Louisiana, Oklahoma who became totally or partially separated from employment on or after May 1, 1988 or before July 11, 1990 are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 25th day of June, 1990.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 90-15185 Filed 6-28-90; 8:45 am]

BILLING CODE 4510-30-M

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary

of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the Federal Register, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by

writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., room S-3014, Washington, DC 20210.

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the Federal Register are in parentheses following the decisions being modified.

Volume I

Connecticut, CT90-1 (Jan. p. 63, pp. 68-70, 5, 1990).

New York:

NY 90-2 (Jan. 5, 1990)..... p. 739, pp. 740, 744.

NY 90-3 (Jan. 5, 1990)..... p. 759, p. 760.

NY 90-4 (Jan. 5, 1990)..... p. 769, pp. 770-771.

NY 90-5 (Jan. 5, 1990)..... p. 777, p. 778.

NY 90-7 (Jan. 5, 1990)..... p. 797, pp. 798-799, 805.

NY 90-8 (Jan. 5, 1990)..... p. 815, p. 816.

NY 90-10 (Jan. 5, 1990)..... p. 831, p. 832.

NY 90-11 (Jan. 5, 1990)..... p. 843, p. 844.

NY 90-12 (Jan. 5, 1990)..... p. 851, p. 852.

NY 90-13 (Jan. 5, 1990)..... p. 861, pp. 862-863.

NY 90-14 (Jan. 5, 1990)..... p. 871, p. 872.

NY 90-15 (Jan. 5, 1990)..... p. 875, p. 876.

NY 90-17 (Jan. 5, 1990)..... p. 881, p. 882.

NY 90-19 (Jan. 5, 1990)..... p. 903, p. 904.

NY 90-20 (Jan. 5, 1990)..... p. 908a, p. 908b.

Pennsylvania:

PA 90-2 (Jan. 5, 1990)..... p. 921, p. 922.

PA 90-7 (Jan. 5, 1990)..... p. 977, pp. 978, 983-984.

PA 90-8 (Jan. 5, 1990)..... p. 987, pp. 989, 993.

PA 90-10 (Jan. 5, 1990)..... p. 1005, p. 1006.

PA 90-17 (Jan. 5, 1990)..... p. 1035, pp. 1037-1038.

PA 90-19 (Jan. 5, 1990)..... p. 1049, pp. 1051-1053.

PA 90-22 (Jan. 5, 1990)..... p. 1067, p. 1069.

Rhode Island, RI90-1 (Jan. 5, 1990)..... p. 1105, pp. 1106-1108.

Virginia, VA90-33 (Jan. 5, 1990)..... p. 1293, p. 1294.

Volume II

Ohio, OH90-2 (Jan. 5, 1990)..... p. 791, pp. 792-794, pp. 798-800, pp. 806-807.

Texas:

TX90-32 (Jan. 5, 1990)..... p. 1069, pp. 1070-1071.

TX90-36 (Jan. 5, 1990)..... p. 1081.

Volume III

California, CA90-4 (Jan. 5, 1990)..... p. 71, pp. 73-75, 77.

Washington, WA90-9 (Jan. 5, 1990)..... p. 431, pp. 432-434.

General Wage Determination Publication

General Wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC this 22nd day of June 1990.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 90-14939 Filed 6-28-90; 8:45 am]

BILLING CODE 4510-27-M

Mine Safety and Health Administration

[Docket No. M-90-87-C]

Dominion Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard

Dominion Coal Corporation, P.O. Box 70, Vansant, Virginia 24656 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Young's Branch No. 15 Mine (I.D. No. 44-03264) located in Buchanan County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that seals be examined on a weekly basis.

2. Petitioner will be conducting pillaring operations, using a three-cut partial recovery method adjacent to a previously abandoned panel which has been sealed.

3. As an alternate method, petitioner proposes to include examination of the

seals within its weekly examination at a bleeder performance evaluation station.

4. In support of this request petitioner states that—

(a) Due to a rock fall, access to the seals has been eliminated;

(b) Blocks adjacent to the seals would not be pillared to help ensure the integrity of the seals; and

(c) Air would be coursed across the face of the seals through the gob areas into the return aircourse.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 30, 1990. Copies of the petition are available for inspection at that address.

Dated: June 22, 1990.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 90-15186 Filed 6-28-90; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-90-88-C]

Dominion Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard

Dominion Coal Corporation, P.O. Box 70, Vansant, Virginia 24656 has filed a petition to modify the application of 30 CFR 75.303 (preshift examination) to its Young's Branch No. 15 Mine (I.D. No. 44-03264) located in Buchanan County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that seals be examined during preshift examination to determine if they are functioning properly.

2. Petitioner will be conducting pillaring operations, using a three-cut partial recovery method adjacent to a previously abandoned panel which has been sealed.

3. As an alternate method, petitioner proposes to include preshift examination of the seals within its

weekly examination at a bleeder performance evaluation station.

4. In support of this request, petitioner states that—

(a) Due to a rock fall, access to the seals has been eliminated;

(b) Blocks adjacent to the seals would not be pillared to help ensure the integrity of the seals; and

(c) Air would be coursed across the face of the seals through the gob areas into the return aircourse.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 30, 1990. Copies of the petition are available for inspection at that address.

Dated: June 22, 1990.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 90-15187 Filed 6-28-90; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-90-89-C]

Kannan Mining Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Kannan Mining Company, Inc., HC 85, Box 2651, Whitesburg, Kentucky 41853 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its Mine No. 1 (I.D. No. 15-15608) located in Letcher County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. Due to uneven roof and soft or uneven bottom, the use of canopies would result in a diminution of safety because canopies would:

(a) Decrease the equipment operator's visibility;

(b) Strike roof supports; and

(c) Cut, dislodge, or pinch electrical cables; resulting in electrical hazards.

3. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 30, 1990. Copies of the petition are available for inspection at that address.

Dated: June 22, 1990.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 90-15188 Filed 6-28-90; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-90-77-C]

Kerr-McGee Coal Corp. Petition; for Modification of Application of Mandatory Safety Standard

Kerr-McGee Coal Corporation, P.O. Box 727, Harrisburg, Illinois 62946 has filed a petition to modify the application of 30 CFR 75.901(a) (protection of low- and medium-voltage three-phase circuits used underground) to its Galatia Mine 50-1 (I.D. No. 11.02752) located in Saline County, Illinois. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statement follows:

1. The petition concerns the requirement that low- and medium-voltage three-phase alternating-current circuits used underground contain either a direct or derived neutral that is grounded through a suitable resistor at the power center, and a grounding circuit, originating at the grounded side of the grounding resistor, extending along with the power conductors to serve as a grounding conductor for the frames of all electrical equipment supplied from that circuit.

2. Petitioner states that the 150 KW, 480 volt, 3 phase AC generator is mounted on a rubber tired trailer. The generator provides power to continuous miners, roof bolters and ratio feeders. Attaching a grounding conductor to the earth referenced ground system reduces the mobility and effectiveness of the generator.

3. As an alternate method, petitioner proposes to use a diesel powered generator without an earth referenced ground.

4. In support of this request, petitioner states that the neutral of the wye configured generator would have in series between it and the frame of the generator, a 480V rated resistor that

would limit phase to frame fault current to 0.5 amp and the power cable between the generator and mining equipment would be shielded.

5. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 30, 1990. Copies of the petition are available for inspection at that address.

Dated: June 22, 1990.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 90-15189 Filed 6-28-90; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-90-83-C]

Mettiki Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard

Mettiki Coal Corporation, Route 3, Box 124A, Deer Park, Maryland 21550 has filed a petition to modify the application of 30 CFR 75.329 (bleeder systems) to its Mettiki Mine (I.D. No. 18-00621) located in Garrett County, Maryland. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that all areas from which pillars have been wholly or partially extracted and abandoned areas, be ventilated by bleeder entries or by bleeder systems or equivalent means, or be sealed.

2. Due to loose roof, sloughing ribs, and a water build-up two bleeder entries cannot be safely traveled. Rehabilitation of these areas would expose miners to hazardous conditions.

3. As an alternate method, petitioner proposes to ventilate the bleeder taps and monitor for methane, carbon dioxide, and oxygen by means of remote sensing equipment.

4. In support of this request, petitioner states that the area containing the bleeder entries would be sealed as soon as mining operations have been completed.

5. Petitioner states that the proposed alternate method will provide the same

degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 30, 1990. Copies of the petition are available for inspection at that address.

Dated: June 22, 1990.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 90-15190 Filed 6-28-90; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-90-82-C]

Tanoma Mining Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Tanoma Mining Company, Inc., R.D. 1, Box 594, Marion Center, Pennsylvania 15759 has filed a petition to modify the application of 30 CFR 75.1103-4 (automatic fire sensor and warning device systems; installation; minimum requirements) to its Tanoma Mine (I.D. No. 36-06987) located in Indiana County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that automatic fire sensor and warning device systems provide identification of fire within each belt flight.
2. In a separate petition (M-90-78-C), petitioner proposes to use air in the belt entry to ventilate active working places.
3. As an alternate method, petitioner proposes to install an early warning fire detection system utilizing a low-level carbon monoxide system in all belt entries used as intake aircourses. The petitioner outlines specific procedures and equipment in the petition.
4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that provided by the standard, while compliance with the standard will result in a diminution of safety to the miners.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and

Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before July 30, 1990. Copies of the petition are available for inspection at that address.

Dated: June 22, 1990.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 90-15191 Filed 6-28-90; 8:45 am]

BILLING CODE 4510-43-M

Occupational Safety and Health Administration

Shipyard Employment Standards Advisory Committee

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given that the Shipyard Employment Standards Advisory Committee, established under the provisions of the Federal Advisory Committee Act (FACA) as amended 5 U.S.C. App. I, and section 7(b) of the Occupational Safety and Health Act, 29 U.S.C. 656 (b), will convene on July 18, 1990 at 8:30 a.m., at the Royal Orleans Hotel, 621 St. Louis Street, New Orleans, LA 70140. Telephone (504-529-5333). This meeting will adjourn on July 19, 1990, at approximately 4:00 p.m. The public is encouraged to attend. The agenda is as follows:

- I. Call to Order.
- II. Review the transcript of April 25-26, 1990 meeting.
- III. Old Business Discussion of the following standards:
 - (a) Working committee report to full committee on suggested revision to 29 CFR part 1915, subpart Z, Asbestos.
 - (b) Special Industries, 29 CFR part 1915, subpart T, including Bakeries, Sawmills and Laundries.
- IV. New Business Discussion of the following standards, as time permits.
 - (a) 29 CFR part 1915, subpart P, Fire Protection.
 - (b) 29 CFR part 1915, subpart C, General Safety and Health Provisions, § 1915.21, Access to Employee Exposure and Medical Records.
 - (c) 29 CFR, part 1915, subpart K, Machinery and Machine Guarding, § 1915.251 to § 1915.257.

The Committee will consider oral presentations relating to agenda items. Persons wishing to address the Committee should submit a written request to Mr. Thomas Hall (address below) by the close of business, July 9, 1990. The request must include the name and address of the person wishing to

appear, the capacity in which the appearance will be made, a short summary of the intended presentation and an estimate of the amount of time needed.

It should be noted that the Committee's current charter expires on July 13, 1990. OSHA is in the process of renewing the charter and expects to complete the process prior to the July 18, 1990 meeting. A notice of the renewal of the charter will be published in the Federal Register when it becomes available.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Hall, U.S. Department of Labor, Occupational Safety and Health Administration, Division of Consumer Affairs, Room N-3647, 200 Constitution Avenue, NW., Washington, DC 20210. (202) 523-8617.

Signed at Washington, DC, this 25th day of June, 1990.

Gerard F. Scannell,

Assistant Secretary of Labor.

[FR Doc. 90-15092 Filed 6-28-90; 8:45 am]

BILLING CODE 4510-26-M

[V-90-1]

Gannett Outdoor Companies

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Notice of Application for Variance.

SUMMARY: This notice announces the application of Gannett Outdoor Companies for a variance from the regulations prescribed in 29 CFR 1910.27 (d)(1)(ii), (d)(2) and (d)(5) concerning fixed ladders.

DATES: The last date for interested persons to submit comments on the variance is August 28, 1990. The last date for affected employees and employers to request a hearing is August 28, 1990.

ADDRESSES: Send comments or request for a hearing to: Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, Third Street and Constitution Avenue, NW., Room N3653, Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: James J. Concannon, Director, Office of Variance Determination, at the above address, Telephone: (202) 523-7193. Or the following Regional and Area Offices:

U.S. Department of Labor—OSHA, 16-18 North Street, 1 Dock Square Building—4th Floor, Boston, Massachusetts 02109

U.S. Department of Labor—OSHA,
Federal Office Building, 450 Main
Street—room 508, Hartford,
Connecticut 06103

U.S. Department of Labor—OSHA, 201
Varick Street—room 670, New York,
New York 10014

U.S. Department of Labor—OSHA,
Teterboro Airport Professional
Building, 500 Route 17, room 206,
Hasbrouck Heights, New Jersey 07604

U.S. Department of Labor—OSHA, 32nd
Floor—room 3244, 230 South Dearborn
Street, Chicago, Illinois 60604

U.S. Department of Labor—OSHA, 6000
West Touhy Avenue, Niles, Illinois
60648

U.S. Department of Labor—OSHA, 300
East Michigan—room 202, Lansing,
Michigan 48933

U.S. Department of Labor—OSHA, 525
Griffin Square—room 602, Dallas,
Texas 75202

U.S. Department of Labor—OSHA, 2320
LaBranch Street—room 1103, Houston,
Texas 77004

U.S. Department of Labor—OSHA, 911
Walnut Street—room 406, Kansas
City, Missouri 64106

U.S. Department of Labor—OSHA, 4300
Goodfellow Boulevard, Building 105E,
St. Louis, Missouri 63120

U.S. Department of Labor—OSHA,
Federal Building—room 1576, 1961
Stout Street, Denver, Colorado 80294

U.S. Department of Labor—OSHA, 1244
Speer Boulevard—suite 360, Denver,
Colorado 80204

U.S. Department of Labor—OSHA, 71
Stevenson Street—room 415, San
Francisco, California 94105

U.S. Department of Labor—OSHA, 3221
North 16th Street—suite 100, Phoenix,
Arizona 85016

Notice of Application

Notice is hereby given that Gannett Outdoor Companies (the applicant), a group of subsidiaries of Gannett Company, Inc., 535 Madison Avenue, New York, New York 10022 has made application pursuant to section 6(d) of the Occupational Safety and Health Act of 1970, 29 U.S.C. 655, and 29 CFR 1905.11 for a variance prescribed in 1910.27 (d)(1)(ii), (d)(2), and (d)(5) concerning fixed ladders.

The addresses of the places of employment that will be affected by the application are as follows:

Gannett Outdoor Co., Inc., of New
Jersey, 185 U.S. Highway 46, Fairfield,
NJ 07006

Gannett Outdoor Co. of Colorado, 4647
Ledyen, Denver, CO 80216

Gannett Outdoor Co. of Michigan, 1355
Century Avenue, SW., Grand Rapids,
MI 49509

Gannett Outdoor Co. of Michigan, 12711
N. Saginaw Street, Flint, MI 48505

Gannett Outdoor Co. of Michigan, 88
Custer Avenue, Detroit, MI 48202

Gannett Outdoor Co. of Texas, Katy
Freeway/1600 Studemont, Houston,
TX 77007

Gannett Outdoor Co. of Kansas City,
2459 Summit Street, Kansas City, MO
64108

Gannett Outdoor Co. of Connecticut, 119
Water Street, New Haven, CT 06500

Gannett Outdoor Co. of Kansas City d/
b/a, Gannett Outdoor Co. of St. Louis,
6767 N. Hanley Rd., St. Louis, MO
63134

Gannett Outdoor Co. of Kansas City d/
b/a, Gannett Outdoor Co. of Chicago,
Suite 200, 444 N. Michigan Avenue,
Chicago, IL 60611

Gannett Outdoor Co. of Arizona, 2502
North Black Canyon Highway, P.O.
Box 934, Phoenix, AZ 85009

Gannett Outdoor Co., Inc., of Southern
California, 1731 Workman Street, Los
Angeles, CA 90031

Gannett Outdoor Co., Inc., of Northern
California, 1695 Eastshore Highway,
Berkeley, CA 94710

Gannett Outdoor Companies variance request involved multiple locations, including two states—Michigan and Arizona—which has OSHA approved occupational safety and health plans and state standards identical to the Federal standards. Therefore, OSHA has forwarded copies of the application to these state authorities and provided an opportunity for comments as required by 29 CFR 1905.14(b)(3).

The applicant has certified that copies of the application have been provided to the authorized employee representatives and posted in places where notices to employees are normally posted. Employees have also been informed of their right to petition the Assistant Secretary for a hearing.

Regarding the merits of the application, the applicant states that it is providing a place of employment as safe as that required by the standards which state that:

Cages and wells shall be provided on ladders of more than 20 feet to a maximum unbroken length of 30 feet (1910.27(d)(1)(ii));

Landing platforms shall be provided for each 30 feet of height when a ladder is used to ascend to heights of more than 20 feet except on chimneys where no cages, wells or ladder safety devices are provided. Landing platforms shall be provided for each 20 feet of height (1910.27(d)(2)); and

Ladder safety devices may be used on towers, water tanks and chimney ladders over 20 feet in unbroken length in lieu of cage protection. No landing platform is required when ladder safety devices are used (1910.27(d)(5)).

In lieu of installing cages or wells and landing platforms as required by the above standards, the applicant proposes to equip a climber with an 18 inch lanyard attached to a safety belt for climbs either on fixed ladders of up to 50 feet or at heights up to 65 feet from grade. The applicant states that the 18 inch lanyard provides a ladder rest attachment which is as safe and healthful for the climber as the use of a cage or well and landing platform. For ladders on which the length of climb exceeds 50 feet or which ascend to heights exceeding 65 feet from grade, the applicant proposes to have climbers use a ladder safety device in lieu of cages or wells and landing platforms. Moreover, the applicant will continue to require that all of its employees who routinely climb fixed ladders to undergo training in climbing and demonstrate the physical capability to safely perform the necessary climbs. The applicant also states that it will permit only workers who satisfy the "qualified climber" requirements regarding training and physical ability, found in the proposed revision of 29 CFR part 1910, subpart D (proposed § 1910.32(b)(5); April 10, 1990), to climb fixed ladders. According to the applicant this will result in "additional safety," compared to compliance with the existing standards, because of the assurance that qualified climbers have the training and physical ability to climb ladders safely.

The applicant states that it is engaged in the outdoor advertising business where it uses billboard-type signs, usually on their own structural support, that in most cases are placed well above the ground level. Workers must climb to a work platform at the bottom of the sign face to change the message on the sign or to perform maintenance. While on the work platform, workers wear a safety belt or harness with a lanyard attached to a cable or other anchorage fastened to the sign structure, as a positive means of fall prevention.

The applicant uses two types of signs. The smaller sign, known as a "poster," has a sign face of 12' x 25' on which preprinted messages are posted. The larger sign is known as a "bulletin" or "rotary bulletin." The bulletin has a sign face of 14' x 48' which consists of preprinted plywood panels that are attached to the sign structure, usually with the assistance of a boom truck. The advertising messages on both types of signs are changed at regular intervals. Posters are usually changed monthly and bulletins are usually "rotated" every two months. Gannett Outdoor Companies currently maintains

approximately 15,652 posters and 3,993 bulletins.

Where the work platform is low (usually 15 feet or less above grade), workers use only portable aluminum ladders to gain access to the platform. On higher platforms there is usually a metal ladder permanently attached to the sign structure. To restrict public access to the work platforms, by children and anyone else who might want to climb on a sign, the fixed ladder on most signs start at 12 to 15 feet above grade. Employees climb a portable ladder to reach the bottom of the fixed ladder (hereinafter referred to as the applicant's combination ladders) and then climb the fixed ladder up to the work platform. The average height of the above grade of the sign platform is approximately 23 feet.

The applicant states that the use of fixed ladders on outdoor advertising signs is not mandated by any past or current OSHA standard; therefore, it could substitute the use of OSHA approved portable ladders which may be used to ascend to heights up to 60 feet (§ 1910.26(a)(2)(ii)). The applicant states that the practice of using its combination ladders has and continues to be regarded by the outdoor advertising industry as inherently safer than using portable ladders to reach all sign platforms.

The applicant states that there has never been a safety problem with the use of its combination ladders on outdoor advertising structures. The applicant further states that all available accident records reflect that the risk of falls by workers while climbing the fixed ladder portion of its combination ladder is virtually nonexistent. From 1969 to 1977, for example, the three largest outdoor advertising companies in California with a combined total of 21,000 structures, recorded no falls by employees from fixed ladders. Workers for those three California companies made over 1.5 million climbs during that period without a single fall. The applicant notes that more recent statistics confirm that conclusion. Gannett Outdoor Companies of California, for example, shows no falls from fixed ladders in 1984, 1985, 1986, 1987, and 1988. During that period, workers for Gannett Outdoor Companies of California made over 205,000 climbs. In addition, the records of Gannett Outdoor Companies of Michigan, with over 3,500 signs, show that for the past five years not a single worker has fallen while climbing a fixed ladder on a sign structure. Thus, the applicant states, that its use of fixed ladders, without cages, wells, landing

platforms or ladder safety devices does not present a safety hazard.

Furthermore, the applicant states that the objectives of those requirements of the standard would not be achieved by application in the outdoor advertising setting, because the cage, well, landing platforms and ladder safety device provisions were never intended to apply to the unique application of the combination ladders on outdoor advertising sign structures.

California has recently reinacted its state plan which includes an exemption for the outdoor advertising industry that is substantially identical to the variance requested herein.

Copies of the application for variance will be made available for inspection and copying upon request at the locations listed above. All interested persons, including employers and employees, who believe they would be affected by the grant or denial of the application for variance are invited to submit written data, views, and arguments relating to the application no later than August 28, 1990. In addition, employers and employees who believe they would be adversely affected by the grant or denial of the variance may request a hearing on the application no later than August 28, 1990, in conformity with the requirements of 29 CFR 1905.15. Submission of written comments and request for a hearing should be in quadruplicate and must be addressed to the Office of Variance Determination at the above address.

Signed at Washington, DC this 25th day of June 1990.

Gerard Scannell,

Assistant Secretary of Labor.

[FR Doc. 90-15192 Filed 6-28-90; 8:45 am]

BILLING CODE 4510-26-M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Cooperative Agreements for Development of State-Level Policy and Planning Arts Education Models and Update of a Special Project Handbook

AGENCY: National Endowment for the Arts.

ACTION: Notification of availability.

SUMMARY: The National Endowment for the Arts is requesting proposals leading to the award of Cooperative Agreements for two projects. (1) The identifying, description, and presentation of existing model evaluation plans of arts education policies and/or programs, one plan which could be used for a larger, more complex state arts education policy/program, and another for a smaller state.

(2) The update of a Special Project Handbook. This effort will include development, production, and dissemination of the handbook which would summarize successful projects supported by the Arts in Education Program during fiscal years 1988 and 1989. Those interested in receiving the Solicitation packages should reference Program Solicitation, PS 90-10 in their written request and include two (2) self-addressed labels. Verbal requests for the Solicitation will not be honored.

DATES: The Program Solicitations are scheduled for release approximately July 20, 1990 with proposals due on August 20, 1990.

FOR FURTHER INFORMATION CONTACT:

William I. Hummel, or Anna Mott, Contracts Division, National Endowment for the Arts, 1100 Pennsylvania Ave., NW., Washington, DC 20506 (202/682-5482).

William I. Hummel,

Director, Contracts and Procurement Division.

[FR Doc. 90-15168 Filed 6-28-90; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

Permit Applications Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978, Public Law 95-541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act of 1978 at title 45 part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to these permit applications by July 31, 1990. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, room 627, Division of Polar Programs, National Science Foundation, Washington, DC 20550.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers at the above address or (202) 357-7834.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as

directed by the Antarctic Conservation Act of 1978 (Pub. L. 95-541), has developed regulations that implement the "Agreed Measures for the Conservation of Antarctic Fauna and Flora" for all United States citizens. The Agreed Measures, developed in 1964 by the Antarctic Treaty Consultative Parties, recommended establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas as requiring special protection. The regulations establish such a permit system to designate Specially Protected Areas and Sites of Special Scientific Interest. Additional information was published in the Federal Register on July 17, 1989.

The applications received are as follows:

1. *Applicant 90-5*, Gerald L. Kooyman, Scripps Institution of Oceanography, University of California, San Diego, La Jolla, CA 92093.

Activity for which permit requested. Taking. Import into USA. The applicant is conducting a study of population dynamics of emperor penguins and leopard seals. He proposes to capture, weigh and release up to 300 birds. Up to 30 birds will be held briefly to attach either a depth recorder, or velocity meter and radio transmitter to each. Instruments will be removed after a few days. Up to 10 carcasses and 20 eggs will be salvaged and returned to the laboratory at Scripps Institution.

Up to 10 leopard seals will be marked for purposes of individual identification. None will be restrained or handled; dye will be applied by means of a squeeze bottle dispenser.

Location. Cape Washington and vicinity, McMurdo Sound, Antarctica.

Dates. October 1990-May 1991.

2. *Applicant 90-6*, Mark A. Chappell, Department of Biology, University of California, Riverside, CA 92521.

Activity for which permit requested. Taking. Import into USA. The applicant is conducting a study of reproductive energetics and foraging behavior of Adelie penguins breeding near Palmer Station, Antarctica. He proposes to measure body composition by capturing up to 140 individuals, weighing them, and taking blood samples.

Birds are injected with non-radioactive isotopes (oxygen-18 and deuterium). In some cases stomach contents samples will be obtained for diet studies in order to calibrate the isotopic measurements. Other studies will involve temporary attachment of time-depth recorders to up to 40 specimens. The recorders are removed after several days. Up to 1000 penguin

chicks will be banded and released for a study of long-term survival of chicks. About 20 non-breeding adults and 40 chicks/year will be captured and examined in the laboratory to determine stomach contents. These birds will be kept for 48 hours or less, and then returned to the site of capture.

Location. Palmer Station and vicinity, Antarctica.

Dates. October 1990-March 1992.

3. *Applicant 90-7*, Mary A. Olson, Science Museum of Minnesota, 30 East Tenth Street, St. Paul, Minnesota 55101.

Activity for which permit requested. Import into USA. The applicant proposes to salvage dead specimens of birds and mammals on an opportunity basis. Specimens will be returned to the Science Museum of Minnesota for scientific study and educational display.

Location. Antarctica (various locations).

Dates. October 1990-May 1991.

4. *Applicant 90-8*, Mary Putt, Oceanography Department, Old Dominion University, Norfolk, VA 23529.

Activity for which permit requested. Introduction of non-indigenous species into Antarctica. The applicant proposes to import bacteria (*E. coli*) and algae (*Phaeocystis pouchetti* and *Mantoniella* (sp.)) to Antarctica for use in feeding studies at the Eklund Biological Center at McMurdo Station. Cultures will be maintained in the laboratory and will not be released to the outside environment.

Location. McMurdo Station, Antarctica.

Dates. November 1990.

5. *Applicant 90-10*, Wayne Z. Trivelpiece, Pt. Reyes Bird Observatory, Stinson Beach, CA 94970.

Activity for which permit requested. Taking. Import into USA. Enter site of Special Scientific Interest. The applicant is conducting a study of the behavioral ecology and population biology of Adelie, Gentoo, and Chinstrap penguins and the interactions among these species and their avian predators: skuas, gulls, sheathbills and giant petrels. Up to 2000 chicks of each penguin species will be banded. For a study of foraging habits, radio transmitters and time-depth recorders will be attached to up to 50 adults of each penguin species. Recorders will be removed from the birds after a few days.

In addition, carcasses or skeletons of dead birds will be salvaged and returned to the USA for educational and scientific study.

Location. Site of Special Scientific Interest #8, Western Shore of Admiralty Bay, King George Island, Antarctica.

Dates. October 1990-March 1991.

6. *Applicant 90-11*, Richard Rivkin, Horn Point Environmental Laboratories, University of Maryland, Cambridge, MD 21613.

Activity for which permit requested. Import into USA. Introduction of non-indigenous species into Antarctica. The applicant proposes to collect in Antarctica algal cultures of *Synechococcus*, *Dunaliella*, *Tertiolecta*, *Skeletonema costatum*, *Isochrysis galbana*, *Thalassiosira pseudonana*, and *Nannochloris* sp. for a study of physiological characteristics. Similar cultures will be imported into Antarctica for laboratory studies at the Eklund Biological Laboratory at McMurdo Station. These non-indigenous cultures will not be released into the environment.

Location. McMurdo Station, Antarctica.

Dates. October 1990-January 1991.

7. *Applicant 90-12*, John S. Pearce, Institute of Marine Sciences, University of California, Santa Cruz, CA 95064

Activity for which permit requested. Introduction of non-indigenous species into Antarctica. The applicant proposes to collect in Antarctica algal cultures of *Synechococcus*, *Dunaliella*, *Tertiolecta*, *Skeletonema costatum*, *Isochrysis galbana*, *Thalassiosira pseudonana*, and *Nannochloris* sp. for a study of the physiological characteristics. Similar cultures will be imported into Antarctica for laboratory studies at the Eklund Biological Laboratory at McMurdo Station. These non-indigenous cultures will not be released into the environment.

Location. McMurdo Station, Antarctica.

Dates. August 20-December 15, 1990.

8. *Applicant 90-13*, Diana W. Freckman, Department of Nematology, University of California, Riverside, CA 92521

Activity for which permit requested. Enter site of Special Scientific Interest. The applicant proposes to enter site of Special Scientific Interest No. 19, Linnaeus Terrace to take soil and rock samples for a study of the effect of soil biota on nutrient cycling processes.

Location. Linnaeus Terrace, Victoria Land, Antarctica.

Dates. January-February 1991.

9. *Applicant 90-14*, J. Chambers, Antarctic Support Associates (ASA), 61 Inverness Drive East, Suite 300, Englewood, CO 80112

Activity for which permit requested. Enter site of Special Scientific Interest. The applicant requests permission for ASA personnel to traverse Site of

Special Scientific Interest No. 18, White Island, to the site of an INMARSAT transmitting/receiving station on Black Island for routine and emergency maintenance and repair of equipment. Traverse of the south-west section of SSSI No. 18 is the only safe surface traverse route to Black Island. The traverses will not interfere with Weddell seals.

Location. Site of Special Scientific Interest No. 18, White Island, McMurdo Sound, Antarctica.

Dates. June 1990–March 1996.

10. Applicant 90–15, Gerald L. Kooyman, Scripps Institution of Oceanography, University of California, San Diego, La Jolla, CA 92093

Activity for which permit requested. Taking. Enter site of Special Scientific Interest (SSSI). The applicant proposes to enter Cape Crozier SSSI to conduct a census of penguins. This project is part of a long-term study of population dynamics of penguins in the Ross Sea area.

Location. Cape Crozier of site of Special Scientific Interest, McMurdo Sound, Antarctica.

Dates. October 1990–January 1991.

Charles E. Meyers,

Polar Coordination Specialist, Permit Office.

[FR Doc. 90–15101 Filed 6–29–90; 6:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–445]

Texas Utilities Electric Co.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed no Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–87, issued to Texas Utilities Electric Company (the licensee) for operation of the Comanche Peak Steam Electric Station, Unit 1 located in Somervell County, Texas.

The proposed amendment would change Technical Specifications 3.2.1, 4.2.1, and 4.2.2 to allow Base Load Operation as an alternative to the normal operating mode in order to maintain the radial peaking factor within the range assumed by the plant's safety analyses. Technical Specification 6.9.1.6 and the Bases to section 3/4.2.1

have also been revised to reflect the new Base Load mode of operation.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the request for amendment involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee provided the following evaluation of the proposed change with regard to these three standards.

1. The proposed changes do not alter any of the assumptions used in the accident analyses for CPSES Unit 1 since Technical Specification core peaking factors limits (particularly F_Q), DNB, and LOCA parameters utilized in the accident analyses remain unchanged. F_Q limits in the Radial Peaking Factor Limit Report provide a method for the determination that F_Q remains within its limits. However, the F_Q value assumed in the accident analyses is not changed.

Therefore, the "Base Load Operation" associated Technical Specification changes do not increase the probability or consequences of an accident previously analyzed.

2. The proposed "Base Load Operation" Technical Specification changes do not involve any plant operations outside the range of those previously allowed or analyzed; specifically, reactor operations such as operating within specified power ranges and/or holding power level for a 24-hour period for xenon stabilization.

Therefore, the proposed Technical Specification changes do not create a new or different kind of accident from those previously analyzed.

3. The "Base Load Operation" provisions in the proposed Technical Specification changes do not alter the Technical Specification limit for F_Q . The "Base Load Operation" F_Q limits as a function of core height and cycle burnup provides a more exact evaluation to determine that F_Q is within its limits. Since the plant operating ranges, core peaking factors, and DNB and LOCA input assumptions of the safety analysis

have not changed, the current CPSES Unit 1 Safety Analysis remains valid.

Therefore, there is no significant reduction in the margin of safety.

Therefore, based on the above considerations, the Commission has made a proposed determination that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this Federal Register notice. Written comments may also be delivered to room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By July 30, 1990, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the Local Public Document room located at the University of Texas at Arlington Library, Government Publications/Maps, 701 South Cooper, P.O. Box 19497, Arlington, Texas 76019. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing

Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one

contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the request for amendment involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If a final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737

and the following message addressed to Christopher I. Grimes: (petitioner's name and telephone number), (date petition was mailed), (plant name), and (publication date and page number of this Federal Register notice). A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to George L. Edgar, Esq., Newman and Holtzinger, 1615 L Street, NW., suite 1000, Washington, DC 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated June 22, 1990, which is available for public inspection at the Commission's Public Document room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the Local Public Document room located at the University of Texas at Arlington Library, Government Publications/Maps, 701 South Cooper, P.O. Box 19497, Arlington, Texas 76019.

Dated at Rockville, Maryland, this 25th day of June 1990.

For the Nuclear Regulatory Commission,
Christopher I. Grimes,
Director, Project Directorate IV-2, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 90-15169 Filed 6-28-90; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Request for Extension of SF 3104; Submitted to OMB for Clearance

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, chapter 35), this notice announces the reclearance of an information collection, SF 3104, Application for Death Benefits—FERS. This form is used by all survivors (except former spouses applying for a monthly benefit) who apply for FERS

death benefits. The information collected is used by the Office of Personnel Management, Federal Employees' Retirement System, to determine whether a benefit is payable in the event of the death of an employee, a former employee, or an annuitant.

Approximately 1560 forms are completed annually, each requiring approximately 30 minutes to complete, for a total public burden of 780 hours. For copies of this proposal, call C. Ronald Truworthy on (202) 606-2261.

DATES: Comments on this proposal should be received by July 30, 1990.

ADDRESSES: Send or deliver comments to: Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW, room 3235 Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Mary Beth Smith-Toomey, (202) 606-0823.

U.S. Office of Personnel Management,
Constance Berry Newman,
Director.

[FR Doc. 90-15171 Filed 6-28-90; 8:45 am]
BILLING CODE 6325-01-M

SMALL BUSINESS ADMINISTRATION

Small Business Investment Companies

AGENCY: Small Business Administration.
ACTION: Notice.

SUMMARY: This Notice announces a 90-day moratorium on approval of applications for new licenses for Small Business Investment Companies licensed pursuant to sections 301 (c) and (d) of the Small Business Investment Act (15 U.S.C. 681 (c) and (d)).

DATES: This Notice is effective on June 29, 1990.

FOR FURTHER INFORMATION CONTACT: Bernard Kulik, Associate Administrator for Investment, U.S. Small Business Administration, 1441 L Street, NW., Washington, DC 20018, (202) 653-6879.

SUPPLEMENTARY INFORMATION: The U.S. Small Business Administration is currently reviewing certain of the criteria under which Small Business Investment Company (SBIC) licenses and section 301(d) or Specialized Small Business Investment Company (Specialized SBIC) licenses are issued. Certain other SBIC and Specialized SBIC program regulations are also under review by the Agency. New regulations may be promulgated to implement any changes deemed necessary by virtue of this review.

As a result, SBA is hereby instituting a 90-day moratorium on the approval

and issuance of licenses for new Small Business Investment Companies and section 301(d) or Specialized Small Business Investment Companies pursuant to sections 301 (c) and (d) of the Small Business Investment Act, 15 U.S.C. 681 (c) and (d).

SBIC and Specialized SBIC license applications received prior to the effective date of this notice and not approved prior to such date will continue to be processed by the Agency up to the point of a decision on licensing, which will not be made until the end of the 90-day moratorium period.

The Agency will continue to accept SBIC and Specialized SBIC license applications during the moratorium period. Licensing decisions concerning applications received by the Agency during such period will be determined by criteria in effect at the end of the moratorium.

Authority: Sec. 308(c), 72 Stat. 694, as amended (15 U.S.C. 687(c)); sec. 312, 78 Stat. 147 (15 U.S.C. 687d); sec. 315, 80 Stat. 1364 (15 U.S.C. 687g).

Dated: June 28, 1990.

Susan S. Engleleiter,
Administrator.

[FR Doc. 90-15193 Filed 6-28-90; 8:45 am]
BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 90-042]

National Boating Safety Advisory Council; Applications for Appointment

AGENCY: Coast Guard, DOT.
ACTION: Request for applicants.

SUMMARY: The U.S. Coast Guard is seeking applicants for appointment to membership on the National Boating Safety Advisory Council (NBSAC). The Council is a 21 member Federal advisory committee that advises the Coast Guard on matters related to recreational boating safety. Members for the Council are drawn equally from the following sectors of the boating community: State officials responsible for State boating safety programs; recreational boat and associated equipment manufacturers; and boating organizations and the general public. Members are appointed by the Secretary of Transportation. Applicants are considered for membership on the basis of their expertise, knowledge, and experience in boating safety. The terms of appointment are staggered so that seven vacancies occur each year.

Applications are being sought for membership vacancies that will occur as

follows: Two (2) members from the recreational boat and associated equipment manufacturers; three (3) members from national recreational boating organizations and from the general public; and two (2) members from State officials responsible for State boating safety programs. To achieve the balance of membership required by the Federal Advisory Committee Act, the Coast Guard is especially interested in receiving applications from minorities and women.

The Council normally meets twice each year at a location selected by the Coast Guard. When attending meetings of the Council, members are provided travel expenses and per diem.

DATES: Requests for application forms be received no later than September 14, 1990.

ADDRESSES: Requests for application forms should be sent to Commandant (G-NAB), U.S. Coast Guard Headquarters, Washington, DC 20593-0001; telephone: (202) 267-0997.

FOR FURTHER INFORMATION CONTACT: Mr. A.J. Marmo, Executive Director, National Boating Safety Advisory Council (G-NAB), room 1202, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593-0001; (202) 267-1077.

Dated: June 25, 1990.

R.A. Appelbaum,
Rear Admiral, U.S. Coast Guard Chief, Office
of Navigation Safety and Waterway Services.
[FR Doc. 90-15118 Filed 6-28-90; 8:45 am]
BILLING CODE 4910-14-M

Federal Aviation Administration

[Proposed Advisory Circular 20-131A]

Airworthiness Approval of Traffic Alert and Collision Avoidance Systems (TCAS II) and Mode S Transponders

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability of proposed Advisory Circular 20-131A, and request for comments.

SUMMARY: This notice announces the availability of and requests comments on a proposed advisory circular (AC) which provides guidance material for the airworthiness approval of Traffic Alert and Collision Avoidance Systems (TCAS II) and Mode S transponders. This notice is necessary to give all interested persons an opportunity to present their views on the proposed AC.

DATES: Comments must be received on or before October 29, 1990.

ADDRESSES: Send all comments on the proposed AC to: Federal Aviation Administration, Attention: Transport Standards Staff, ANM-110, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. Comments may be inspected at the above address between 7:30 a.m. and 4 p.m. weekdays, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jan Thor, Transport Standards Staff, at the address above, telephone (206) 431-2127.

SUPPLEMENTARY INFORMATION:

Comments Invited

A copy of the draft AC may be obtained by contacting the person named above under "FOR FURTHER INFORMATION CONTACT." Interested persons are invited to comment on the proposed AC by submitting such written data, views, or arguments as they may desire. Commenters should identify AC 20-131A and submit comments, in duplicate, to the address specified above. All communications received on or before the closing date for comments will be considered by the Transport Standards Staff before issuing the final AC.

Background

The material provided in this AC addresses the design aspects, characteristics, mechanization, testing, and the criticality of system failure cases for TCAS II and Mode S transponders. The guidance material is directed at systems which provide traffic advisories and resolution advisories in the vertical axis only (TCAS II) and where the operational performance standards are defined in technical documents that were developed by a joint air transport industry/government group (RTCA Special Committee SC-147).

Issued in Seattle, Washington, on June 19, 1990.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service, ANM-100.

[FR Doc. 90-15184 Filed 6-28-90; 8:45 am]

BILLING CODE 4910-13-M

[Proposed Advisory Circular 25.1529-1]

Instructions for Continued Airworthiness

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability of proposed advisory circular 25.1529-1, and request for comments.

SUMMARY: This notice announces the availability of and requests comments on a proposed advisory circular (AC) pertaining to instructions for continued airworthiness of transport category airplanes. The proposed AC addresses approval procedures to follow when making repairs on structure certified to the damage tolerance requirements of § 25.571 of the Federal Aviation Regulations (FAR), Amendment 25-45 and to type designs with supplemental inspection documents (SIDs) which were based on this criteria. This notice is necessary to give all interested persons an opportunity to present their views on the proposed AC.

DATES: Comments must be received on or before October 29, 1990.

ADDRESSES: Send all comments on the proposed AC to: Federal Aviation Administration, Attention: Transport Standards Staff, ANM-110, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. Comments may be inspected at the above address between 7:30 a.m. and 4 p.m. weekdays, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jan Thor, Transport Standards Staff, at the above address, telephone (206) 431-2127.

SUPPLEMENTARY INFORMATION:

Comments Invited

A copy of the draft AC may be obtained by contacting the person named above under "FOR FURTHER INFORMATION CONTACT." Interested persons are invited to comment on the proposed AC by submitting such written data, views, or arguments, as they may desire. Commenters should identify AC 25.1529-1 and submit comments, in duplicate, to the address specified above. All communications received on or before the closing date for comments will be considered by the Transport Standards Staff before issuing the final AC.

Background

Proposed AC 25.1529-1 provides instructions to ensure continued airworthiness of structural repairs made to damage tolerant structures on transport category airplanes. Approval procedures are needed when making repairs to structure certified to the damage tolerance requirements of § 25.571 of the Federal Aviation Regulations (FAR), Amendment 25-45, to ensure that the structures remain damage tolerant after repairs have been made.

Issued in Seattle, Washington, on June 13, 1990.

Jame V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service, ANM-100.

[FR Doc. 90-15183 Filed 6-28-90; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Availability of Procedural Relief; Notice of Extension

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice.

SUMMARY: This notice extends the availability of procedural relief that was provided by Notice 89-4, 1989-1 C. B. 624. Notice 89-4 provided a settlement procedure in cases involving facts similar to those at issue in *Estate of Howard v. Commissioner*, 91 T.C. 329 (1988).

EFFECTIVE DATE: The extension of availability of relief is effective as of January 1, 1990.

FOR FURTHER INFORMATION CONTACT: Susan Hurwitz, Office of Assistant Chief Counsel (Passthroughs and Special Industries), (202) 343-8554 (not a toll-free number.).

SUPPLEMENTARY INFORMATION:

Background

Under section 2056(b)(7) of the Internal Revenue Code an executor can elect to treat a surviving spouse's income interest in property as "qualified terminable interest property" if certain conditions are satisfied. The property must pass from the decedent and the surviving spouse must have a qualifying income interest for life in the property. The surviving spouse has a qualifying income interest for life if the surviving spouse is entitled to all the income from the property, payable annually or at more frequent intervals, and no person has a power to appoint any part of the property to any person other than the surviving spouse. Section 20.2056(b)-7(c)(1) of the Proposed Estate Tax Regulations provides that an income interest will not fail to constitute a qualifying income interest for life solely because income between the date of the last distribution and the date of the surviving spouse's death is not required to be distributed to the surviving spouse or the surviving spouse's estate.

Notice 90-46, I.R.B. 1990-23, July 9, 1990**Estate Tax Marital Deduction—
Qualified Terminable Interest Property***Estate of the Howard v. Commissioner*,
91 T.C. 329 (1988)

This Notice extends the procedural relief provided by Notice 89-4, 1989-1 C.B. 624.

The Internal Revenue Service issued Notice 89-4 in response to *Estate of Howard v. Commissioner*, 91 T.C. 329 (1988). In *Howard*, the Tax Court held that a trust does not satisfy the requirements of a qualified terminable interest property (QTIP) trust under section 2056(b)(7) of the Internal Revenue Code unless certain requirements are met. These requirements are satisfied if the trustee is required (1) to distribute the trust income at annual or more frequent intervals and (2) to pay the income accrued between the last distribution date and the surviving spouse's death to the surviving spouse's estate or pursuant to his or her exercise of a general power of appointment.

The Tax Court's opinion is in conflict with § 20.2056(b)-7(c)(1) of the proposed Estate Tax Regulations. Because taxpayers and their representatives were concerned that the Service might abandon the position reflected in the proposed regulations and deny the marital deduction with respect to property passing to a trust that did not meet the requirements set forth by the Tax Court, the Service in Notice 89-4 set forth an interim settlement procedure available with respect to any trust that presented the issue addressed in *Howard* but otherwise met the requirements of section 2056(b)(7) or 2523(f)(2) of the Code. Under the procedure, the Service and the persons having an interest in the trust could formally acknowledge that the marital deduction is allowable for the property passing to the trust and that the spouse's interest in the trust is a "qualifying income interest for life" for purposes of sections 2044 and 2519.

Under Notice 89-4 the settlement procedure was made available with respect to any transfer in trust for which the applicable period of limitations remained open, including a transfer reported on a return that is the subject of a closing letter issued by the District Director. It was made available with respect any transfer until the later of December 31, 1989, or ninety days after the date the District Director gave the taxpayer written notice of the availability of the procedure. Under the present notice, the period for which the settlement procedure is available is

extended and will remain available with respect to any such transfer for which a properly prepared closing agreement is submitted by the taxpayer on or before December 31, 1990.

In cases where the return has not yet been filed, the taxpayer may initiate the procedure by filing a proposed closing agreement with the estate tax or gift tax return. Provided that the trust otherwise meets the requirements of section 2056(b)(7) or 2523(f)(2) of the Code, the filing with the estate tax or gift tax return of the proposed closing agreement (if signed by all persons having an interest in the trust) will ensure that the marital deduction will not be disallowed on the basis that the surviving spouse does not have a right to accrued but undistributed income to death.

In other cases, a closing agreement may be executed in connection with the examination of the return on which the transfer is reported. In the case of a return that was previously examined or was filed and has not yet been examined, either the Service or the taxpayer may initiate the settlement procedure.

The provisions of Notice 89-4 continue to apply with respect to the interim settlement procedure for the extended period provided in this Notice.

Drafting Information

The principal author of this notice is Susan Hurwitz of the Office of Assistant Chief Counsel (Passthroughs and Special Industries). For further information about this notice call Ms. Hurwitz at (202) 343-8554 (not a toll-free call).

Richard Grosgebauer,
Chief, Branch 4, (Passthroughs and Special Industries CC:PSI:4).

[FR Doc. 90-15087 Filed 6-28-90; 8:45 am]
BILLING CODE 4830-01-M

**UNITED STATES INFORMATION
AGENCY****Culturally Significant Objects Imported
for Exhibition; Mexico: Splendors of
Thirty Centuries****Determination**

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 965, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85-5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, "Mexico: Splendors of Thirty Centuries" (see

list ¹) imported from abroad for the temporary exhibition without profit within the United States are of cultural significance. These objects are imported pursuant to loan agreements with the foreign lenders. I also determine that the temporary exhibition or display of the listed exhibit objects at the Metropolitan Museum, New York, N.Y., beginning on or about October 10, 1990, to on or about January 13, 1991; at the San Antonio Museum of Art, Texas, beginning on or about April 6, 1991, to on or about August 4, 1991; and the Los Angeles County Museum of Art, California, beginning on or about September 12, 1991, to on or about December 29, 1991, is in the national interest.

Public notice of this determination is ordered to be published in the Federal Register.

Dated: June 27, 1990.

R. Wallace Stuart,
Acting General Counsel.

[FR Doc. 90-15292 Filed 6-28-90; 8:45 am]

BILLING CODE 5330-01-M

**DEPARTMENT OF VETERANS
AFFAIRS****Summary of Legal Interpretation of the
General Counsel-Precedent Opinion
14-90, Legal Opinion on the
Secretary's Authority To Comply With
Certain Conditions Specified in Loan
Sale Agreement for AHT VI**

AGENCY: Department of Veterans
Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is publishing a summary of a legal interpretation issued by the Department's General Counsel involving veterans' benefits under laws administered by VA. This interpretation is considered precedential by VA and will be followed by VA officials and employees in future claim matters. It is being published to provide the public, and, in particular, veterans' benefit claimants and their representatives, with notice of VA's interpretation regarding the legal matter at issue—a. Does the Secretary of Veterans Affairs have the authority to transfer, pursuant to the terms of the American Housing Trust VI (AHT VI) loan sale agreement, a portion of the subordinate certificates received as consideration in prior VA vendee

¹ A copy of this list may be obtained by contacting Mr. R. Wallace Stuart of the Office of the General Counsel of USIA. The telephone number is 202/619-5078, and the address is room 700, U.S. Information Agency, 301 Fourth Street, SW., Washington, DC 20547.

sales to a collateral trust which will provide credit and liquidity support for AHT VI?; b. May the Secretary agree to terms imposed by the AHT VI loan sale agreement which will require, as a condition to the sale, that within the collateral trust a reserve fund be established, maintained, and replenished by VA?; and c. May VA's loan guaranty obligation include reimbursement to AHT VI for the trust's actual expense for prepayment interest shortfalls?

EFFECTIVE DATE: May 21, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Jay D. Farris, Chief, Law Library, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233-6442.

SUPPLEMENTARY INFORMATION: VA regulations at 38 CFR 2.6(e)(9) and 14.507 authorize the Department's General Counsel to issue written legal opinions having precedential effect in adjudications and appeals involving veterans' benefits under laws administered by VA. The General Counsel's interpretations on legal matters, contained in such opinions, are conclusive as to all VA officials and employees not only in the matter at issue but also in future adjudications and appeals, in the absence of a change in controlling statute or regulation or a superseding written legal opinion of the General Counsel.

VA publishes summaries of such opinions in order to provide the public with notice of those interpretations of the General Counsel which must be followed in future benefit matters and to assist veterans' benefit claimants and their representative in the prosecution of benefit claims. The full text of such opinions, with personal identifiers deleted, may be obtained by contacting the VA official named above.

A summary of the General Counsel's opinion designated O.G.C. Prec. 14-90, Legal Opinion on the Secretary's Authority to Comply with Certain Conditions Specified in Loan Sale Agreement for AHT VI, requested by Chief Benefits Director (20), is as follows:

Held: In the AHT VI transaction and pursuant to the loan sale agreement, the Secretary of Veterans Affairs has the authority to transfer subordinate certificates to a collateral trust, to agree to establish, maintain, and replenish a reserve fund within the collateral trust, and to include within the VA loan guaranty an obligation to reimburse the trust for prepayment interest shortfalls.

Dated: June 12, 1990.

Raoul L. Carroll,

General Counsel.

[FR Doc. 90-15134 Filed 6-28-90; 8:45 am]

BILLING CODE 8320-01-M

Summary of Legal Interpretation of the General Counsel-Precedent Opinion 3-90, Reduction of Benefits

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is publishing a summary of a legal interpretation issued by the Department's General Counsel involving veterans' benefits under laws administered by VA. This interpretation is considered precedential by VA and will be followed by VA officials and employees in future claim matters. It is being published to provide the public, and, in particular, veterans' benefit claimants and their representatives, with notice of VA's interpretation regarding the legal matter at issue—may a veteran who has been found "not guilty by reason of insanity" under California law and committed to a state hospital for care and treatment be subject to reduction or cessation of VA benefits pursuant to 38 U.S.C. 505 or 3113.

EFFECTIVE DATE: March 20, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Jay D. Farris, Chief, Law Library, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233-6442.

SUPPLEMENTARY INFORMATION: VA regulations at 38 CFR 2.6(e)(9) and 14.507 authorize the Department's General Counsel to issue written legal opinions having precedential effect in adjudications and appeals involving veterans' benefits under laws administered by VA. The General Counsel's interpretations on legal matters, contained in such opinions, are conclusive as to all VA officials and employees not only in the matter at issue but also in future adjudications and appeals, in the absence of a change in controlling statute or regulation or a superseding written legal opinion of the General Counsel.

VA publishes summaries of such opinions in order to provide the public with notice of those interpretations of the General Counsel which must be followed in future benefit matters and to assist veterans' benefit claimants and their representatives in the prosecution of benefit claims. The full text of such opinions, with personal identifiers

deleted, may be obtained by contacting the VA official named above.

A summary of the General Counsel's opinion designated O.G.C. Prec. 3-90, Reduction of Benefits Pursuant to 38 U.S.C. 3113 and 505, requested by VA District Counsel, 344/02, Los Angeles, CA, is as follows:

Held: The provisions of 38 U.S.C. 505 and 3113 do not apply to veterans who, under California law, have been found "not guilty by reason of insanity" and confined to a state hospital for care and treatment.

Dated: June 12, 1990.

Raoul L. Carroll,

General Counsel.

[FR Doc. 90-15124 Filed 6-28-90; 8:45 am]

BILLING CODE 8320-01-M

Summary of Legal Interpretation of the General Counsel-Precedent Opinion 12-90, Waiver of Loan Guaranty Indebtedness Following a Deed in Lieu of Foreclosure

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is publishing a summary of legal interpretation issued by the Department's General Counsel involving veterans' benefits under laws administered by VA. This interpretation is considered precedential by VA and will be followed by VA officials and employees in future claim matters. It is being published to provide the public, and, in particular, veterans' benefit claimants and their representatives, with notice of VA's interpretation regarding the legal matter at issue—a. Does a veteran have the right to request waiver of a debt evidenced by a promissory note given in connection with a voluntary deed in lieu of foreclosure of a VA guaranteed loan?; and b. If question a. is yes, and the regional office Committee on Waivers and Compromises denies the waiver, is that decision appealable to the Board of Veterans Appeals?

EFFECTIVE DATE: May 18, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Jay D. Farris, Chief, Law Library, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233-6442.

SUPPLEMENTARY INFORMATION: VA regulations at 38 CFR 2.6(e)(9) and 14.507 authorize the Department's General Counsel to issue written legal opinions having precedential effect in adjudications and appeals involving

veterans' benefits under laws administered by VA. The General Counsel's interpretations on legal matters, contained in such opinions, are conclusive as to all VA officials and employees not only in the matter at issue but also in future adjudications and appeals, in the absence of a change in controlling statute or regulation or a superseding written legal opinion of the General Counsel.

VA publishes summaries of such opinions in order to provide the public with notice of those interpretations of the General Counsel which must be followed in future benefits matters and to assist veterans' benefit claimants and their representatives in the prosecution of benefit claims. The full text of such opinions, with personal identifiers deleted, may be obtained by contacting the VA official named above.

A summary of the General Counsel's opinion designated O.G.C. Prec. 12-90, Waiver of Loan Guaranty Indebtedness Following a Deed in Lieu of Foreclosure, requested by VA District Counsel (333/02), Des Moines, Iowa, is as follows:

Held: Veterans who give a voluntary deed in lieu of foreclosure in connection with a defaulted VA guaranteed loan and who also sign a note to VA for the difference between the outstanding debt and the value of the security at the time of this deed do not by virtue of signing such note give up the right to seek waiver of the debt to VA. The regional office Committee on Waivers and Compromises should consider the case in the same manner as any other request for waiver of a loan guaranty debt. This office expresses no opinion on whether or not the Board of Veterans Appeals should consider an appeal of an unfavorable decision by the regional office Committee.

Dated: June 12, 1990.

Raoul L. Carroll,
General Counsel.

[FR Doc. 90-15133 Filed 6-28-90; 8:45 am]

BILLING CODE 8320-01-M

Summary of Legal Interpretation of the General Counsel-Precedent Opinion 10-90, Disability pay under 37 U.S.C. 204 (g), (h) and (i)

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is publishing a summary of a legal interpretation issued by the Department's General Counsel involving veterans' benefits under laws administered by VA. This interpretation is considered precedential by VA and

will be followed by VA officials and employees in future claim matters. It is being published to provide the public, and, in particular, veterans' benefit claimants and their representatives, with notice of VA's interpretation regarding the legal matter at issue—in view of the prohibition contained in 38 U.S.C. 3104(c) against payment of pension, compensation, and retirement pay to an individual for any period during which he or she receives active service pay, does compensation payable under 37 U.S.C. 204 (g), (h) and (i) to members of a reserve component of the uniformed services, who are disabled during a period of active duty of inactive-duty training, represent active service pay?

EFFECTIVE DATE: April 30, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Jay D. Farris, Chief, Law Library, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233-6442.

SUPPLEMENTARY INFORMATION: VA regulations at 38 CFR 2.6(e)(9) and 14.507 authorize the Department's General Counsel to issue written legal opinions having precedential effect in adjudications and appeals involving veterans' benefits under laws administered by VA. The General Counsel's interpretations on legal matters, contained in such opinions, are conclusive as to all VA officials and employees not only in the matter at issue but also in future adjudications and appeals, in the absence of a change in controlling statute or regulation or a superseding written legal opinion of the General Counsel.

VA publishes summaries of such opinion in order to provide the public with notice of those interpretations of the General Counsel which must be followed in future benefit matters and to assist veterans' benefit claimants and their representatives in the prosecution of benefit claims. The full text of such opinions, with personal identifiers deleted, may be obtained by contacting the VA official named above.

A summary of the General Counsel's opinion designated O.G.C. Prec. 10-90, Disability pay under 37 U.S.C. 204 (g), (h) and (i), requested by Acting Chief Benefits Director (20), is as follows:

Held: Payments made to reservists, including members of the Army and Air Force National Guards, pursuant to the provisions of 37 U.S.C. 204 (g), (h) and (i) are in the nature of temporary disability compensation and are not intended to represent payment of duty performed, as described in 10 U.S.C. 684. The statutes creating, and modifying, this benefit do not contain a provision prohibiting

concurrent payment of these benefits with pension, VA compensation or retirement pay. See Public Law No. 99-611, 100 Stat. 3875 (1986) and Public Law No. 100-456, 102 Stat. 1918 (1988). While previously viewed by the General Counsel as representing "active service pay" and, therefore, subject to the prohibition in 38 U.S.C. 3104(c) against concurrent payment with other benefits, statutory changes in the nature of these payment leads us to conclude that there is no longer legal authority for that interpretation. Instead, we conclude that payments to reservists under the provisions of 37 U.S.C. 204 (g), (h) and (i) are made at a time when reservists are no longer in an "active duty" status and do not otherwise represent "active service pay." Therefore, the prohibition against concurrent payment of benefits contained in 38 U.S.C. 3104(c) is not applicable to these payments.

Dated: June 12, 1990.

Raoul L. Carroll,
General Counsel.

[FR Doc. 90-15131 Filed 6-28-90; 8:45 am]

BILLING CODE 8320-01-M

Summary of Legal Interpretation of the General Counsel-Precedent Opinion 7-90, Improved Pension Rate for Estranged Married Veterans

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is publishing a summary of a legal interpretation issued by the Department's General Counsel involving veterans' benefits under laws administered by VA. This interpretation is considered precedential by VA and will be followed by VA officials and employees in future claim matters. It is being published to provide the public, and, in particular, veterans' benefit claimants and their representatives, with notice of VA's interpretation regarding the legal matter at issue—1. Does 38 U.S.C. 521(f) require the application of a combined improved pension rate when veterans married to one another are estranged and neither spouse is reasonably contributing to the support of the other? and 2. When an estranged veteran is reasonably contributing to the support of a veteran spouse, does 38 U.S.C. 521(f) require the application of the combined rate?

EFFECTIVE DATE: April 18, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Jay D. Farris, Chief, Law Library, Department of Veterans Affairs, 810

Vermont Avenue NW., Washington, DC 20420, (202) 233-6442.

SUPPLEMENTARY INFORMATION: VA regulations at 38 CFR 2.6(e)(9) and 14.507 authorize the Department's General Counsel to issue written legal opinions having precedential effect in adjudications and appeals involving veterans' benefits under laws administered by VA. The General Counsel's interpretations on legal matters, contained in such opinions, are conclusive as to all VA officials and employees not only in the matter at issue but also in future adjudications and appeals, in the absence of a change in controlling statute or regulation or a superseding written legal opinion of the General Counsel.

VA publishes summaries of such opinions in order to provide the public with notice of those interpretations of the General Counsel which must be followed in future benefit matters and to assist veterans' benefit claimants and their representatives in the prosecution of benefit claims. The full text of such opinions, with personal identifiers deleted, may be obtained by contacting the VA official named above.

A summary of the General Counsel's opinion designated O.G.C. Prec. 7-90, Improved Pension Rate for Estranged Married Veterans, requested by Chief, Benefits Director (2), is as follows:

Held: 1. When veterans married to one another are estranged and neither veteran is reasonably contributing to the other's support, the combined improved pension rates applicable under 38 U.S.C. 521(f) to veterans married to one another do not apply.

2. When the special combined rate does not apply because the married veterans are estranged and neither is reasonably contributing to the other's support, the pension rate for each veteran is based upon 38 U.S.C. 521(b) (or section 521 (d)(1) or (e) in the case of certain severely disabled veterans), which specified pension rates for single veterans and veterans who are married but not living with or reasonably contributing to the support of their spouse.

3. When veterans married to one another are estranged, but one veteran is making a reasonable contribution to the support of the other, the combined improved pension rates in section 521(f) apply.

Dated: June 12, 1990.

Raoul L. Carroll,
General Counsel.

[FR Doc. 90-15128 Filed 6-29-90; 6:45 am]

BILLING CODE 8320-01-M

Summary of Legal Interpretation of the General Counsel-Precedent Opinion 4-90, Offset of Medal of Honor Pension for Purposes of Collecting Debts Due the Department of Veterans Affairs

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is publishing a summary of a legal interpretation issued by the Department's General Counsel involving veterans' benefits under laws administered by VA. This interpretation is considered precedential by VA and will be followed by VA officials and employees in future claim matters. It is being published to provide the public, and, in particular, veterans' benefit claimants and their representatives, with notice of VA's interpretation regarding the legal matter at issue—do the provisions of 38 U.S.C. 3114(a), requiring the offset of future benefit payments to recover certain indebtedness to the United States, authorize VA to offset Medal of Honor Pension in order to collect a loan guaranty debt due this Department? **EFFECTIVE DATE:** March 20, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Jay D. Farris, Chief, Law Library, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 233-6442.

SUPPLEMENTARY INFORMATION: VA regulations at 38 CFR 2.6(e)(9) and 14.507 authorize the Department's General Counsel to issue written legal opinions having precedential effect in adjudications and appeals involving veterans' benefits under laws administered by VA. The General Counsel's interpretations on legal matters, contained in such opinions, are conclusive as to all VA officials and employees not only in the matter at issue but also in future adjudications and appeals, in the absence of a change in controlling statute or regulation or a superseding written legal opinion of the General Counsel.

VA publishes summaries of such opinions in order to provide the public with notice of those interpretations of the General Counsel which must be followed in future benefit matters and to assist veterans' benefit claimants and their representatives in the prosecution of benefit claims. The full text of such opinions, with personal identifiers deleted, may be obtained by contacting the VA official named above.

A summary of the General Counsel's opinion designated O.G.C. Prec. 4-90, Offset of Medal of Honor Pension for

Purposes of Collecting Debts Due the Department of Veterans Affairs, requested by Acting Chief Benefits Director (20), is as follows:

Held: VA may not set off indebtedness created due to a VA loan guaranty against Congressional Medal of Honor pension. Under 38 U.S.C. 560-62, the function of VA concerning payment of Medal of Honor pension is ministerial in that VA merely pays the pension authorized, once the name of the veteran has been placed on the Medal of Honor Roll by the Secretary of the service department concerned. The Medal of Honor pension statutes are therefore not laws administered by VA, and thus payments under those statutes are not subject to the offset requirement of 38 U.S.C. 3114.

Dated: June 12, 1990.

Raoul L. Carroll,
General Counsel.

[FR Doc. 90-15125 Filed 6-28-90; 8:45 am]

BILLING CODE 8320-01-M

Summary of Legal Interpretation of the General Counsel-Precedent Opinion 13-90, Application of Recoveries from Health Insurance to Category C Debts

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is publishing a summary of a legal interpretation issued by the Department's General Counsel involving veterans' benefits under laws administered by VA. This interpretation is considered precedential by VA and will be followed by VA officials and employees in future claim matters. It is being published to provide the public, and, in particular, veterans' benefit claimants and their representatives, with notice of VA's interpretation regarding the legal matter at issue—What is the correct application of a reimbursement from a third party health insurer representing the cost of VA health care when there is also a Category C "means test" copayment debt?

EFFECTIVE DATE: May 21, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Jay D. Farris, Chief, Law Library, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233-6442.

SUPPLEMENTARY INFORMATION: VA regulations at 38 CFR 2.6(e)(9) and 14.507 authorize the Department's General Counsel to issue written legal opinions having precedential effect in

adjudications and appeals involving veterans' benefits under laws administered by VA. The General Counsel's interpretations on legal matters, contained in such opinions, are conclusive as to all VA officials and employees not only in the matter at issue but also in future adjudications and appeals, in the absence of a change in controlling statute or regulation or a superseding written legal opinion of the General Counsel.

VA publishes summaries of such opinions in order to provide the public with notice of those interpretations of the General Counsel which must be followed in future benefit matters and to assist veterans' benefit claimants and their representatives in the prosecution of benefit claims. The full text of such opinions, with personal identifiers deleted, may be obtained by contacting the VA official named above.

A summary of the General Counsel's opinion designated O.G.C. Prec. 13-90, Application of Recoveries from Health Insurance to Category C Debts, requested by the Chief Medical Director (10), is as follows:

Held: Where a Category C veteran also has health insurance, recovery from which is subject to 38 U.S.C. 629, payments by the health insurer should be applied to satisfy the means test copayment debt to the extent that the insurance provides coverage, and the remainder should be applied to the third party debt, with the third party claim being adjusted accordingly.

Dated: June 12, 1990.

Raoul L. Carroll,
General Counsel.

[FR Doc. 90-15133 Filed 6-28-90; 8:45 am]

BILLING CODE 8320-01-M

Summary of Legal Interpretation of the General Counsel-Precedent Opinion 5-90, Waiver of Indebtedness—was O.G.C. Advisory Opinion 8-89 dated 3-21-89

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is publishing a summary of a legal interpretation issued by the Department's General Counsel involving veterans' benefits under laws administered by VA. This interpretation is considered precedential by VA and will be followed by VA officials and employees in future claim matters. It is being published to provide the public, and, in particular, veterans' benefit claimants and their representatives, with notice of VA's interpretation

regarding the legal matter at issue—may VA consider a veteran's request for a waiver of the recovery of a loan guaranty indebtedness if at the foreclosing lender's suggestion, subsequent to foreclosure, the veteran redeems the property securing the mortgage, and simultaneously transfers title to a third party purchaser?

EFFECTIVE DATE: March 29, 1990.

FOR FURTHER INFORMATION CONTACT:

Mr. Jay D. Farris, Chief, Law Library, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233-6442.

SUPPLEMENTARY INFORMATION: VA regulations at 38 CFR 2.6(e)(9) and 14.507 authorize the Department's General Counsel to issue written legal opinions having precedential effect in adjudications and appeals involving veterans' benefits under laws administered by VA. The General Counsel's interpretations on legal matters, contained in such opinions, are conclusive as to all VA officials and employees not only in the matter at issue but also in future adjudications and appeals, in the absence of a change in controlling statute or regulation or a superseding written legal opinion of the General Counsel.

VA publishes summaries of such opinions in order to provide the public with notice of those interpretations of the General Counsel which must be followed in future benefit matters and to assist veterans' benefit claimants and their representatives in the prosecution of benefit claims. The full text of such opinions, with personal identifiers deleted, may be obtained by contacting the VA official named above.

A summary of the General Counsel's opinion designated O.G.C. Prec. 5-90, Waiver of Indebtedness, requested by Chairman, Board of Veterans Appeals (01), is as follows:

Held: In this particular case the veteran and spouse for all intents and purposes lost their entire interest in the property as a result of the loan termination, as defined in the VA manual. A waiver request may be considered in this situation, notwithstanding the veteran and spouse's redemption of the property after foreclosure.

Dated: June 12, 1990.

Raoul L. Carroll,
General Counsel.

[FR Doc. 90-15126 Filed 6-28-90; 8:45 am]

BILLING CODE 8320-01-M

Summary of Legal Interpretation of the General Counsel-Precedent Opinion 6-90, Transfer of Residential Properties Acquired Under the Loan Guaranty Program to VHS&RA

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is publishing a summary of a legal interpretation issued by the Department's General Counsel involving veterans' benefits under laws administered by VA. This interpretation is considered precedential by VA and will be followed by VA officials and employees in future claim matters. It is being published to provide the public, and, in particular, veterans' benefit claimants and their representatives, with notice of VA's interpretation regarding the legal matter at issue—a. are properties acquired by the Secretary of Veterans Affairs, pursuant to the home loan program, available for transfer to the Veterans Health Service and Rehabilitation Administration (VHS&RA) for use as medical related facilities and b. upon transfer, should VA impose restrictions on the use of such properties similar to the restrictions imposed when vendee properties are transferred to nonprofit organizations assisting homeless veterans?

EFFECTIVE DATE: March 29, 1990.

FOR FURTHER INFORMATION CONTACT:

Mr. Jay D. Farris, Chief, Law Library, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233-6442.

SUPPLEMENTARY INFORMATION: VA regulations at 38 CFR 2.6(e)(9) and 14.507 authorize the Department's General Counsel to issue written legal opinions having precedential effect in adjudications and appeals involving veterans' benefits under laws administered by VA. The General Counsel's interpretations on legal matters, contained in such opinions, are conclusive as to all VA officials and employees not only in the matter at issue but also in future adjudications and appeals, in the absence of a change in controlling statute or regulation or a superseding written legal opinion of the General Counsel.

VA publishes summaries of such opinions in order to provide the public with notice of those interpretations of the General Counsel which must be followed in future benefit matters and to assist veterans' benefit claimants and their representatives in the prosecution of benefit claims. The full text of

opinions, with personal identifiers deleted, may be obtained by contacting the VA official named above.

A summary of the General Counsel's opinion designated O.G.C. Prec. 6-90, Transfer of Residential Properties acquired under the Loan Guaranty Program to VHS&RA, requested by Director, Loan Guaranty Service (26), is as follows:

Held: The Secretary has the authority to acquire properties held in the vendee property inventory for use by VHS&RA as medical related facilities. Transfer of such properties must include appropriate consideration, and conveyancing documents need not contain any use restrictions as conditions to the transfers.

Dated: June 12, 1990.

Raoul L. Carroll,
General Counsel.

[FR Doc. 90-15127 Filed 6-28-90; 8:45 am]

BILLING CODE 8320-01-M

Summary of Legal Interpretation of the General Counsel-Precedent Opinion 9-90, Definition of Radiogenic Disease as used in 38 U.S.C. 312(c)(2) and 38 CFR 3.311(b)(2)

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is publishing a summary of a legal interpretation issued by the Department's General Counsel involving veterans' benefits under laws administered by VA. This interpretation is considered precedential by VA and will be followed by VA officials and employees in future claim matters. It is being published to provide the public, and, in particular, veterans' benefit claimants and their representatives, with notice of VA's interpretation regarding the legal matter at issue—1. Does 38 U.S.C. 313(a) preclude the establishment of presumptive service connection under 38 U.S.C. 312(c)(2) for a cancer listed therein which developed as a result of metastasis of a nonradiogenic cancer, i.e., a cancer not listed in section 312(c)(2)? and 2. Does 38 CFR 3.311b(g) preclude the establishment of service connection under 38 CFR 3.311b for a cancer listed therein which developed as a result of metastasis of a nonradiogenic cancer, i.e., in this situation, a cancer not listed in 38 CFR 3.311b?

EFFECTIVE DATE: April 30, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Jay D. Farris, Chief, Law Library, Department of Veterans Affairs, 810

Vermont Avenue, NW., Washington, DC 20420, (202) 233-6442.

SUPPLEMENTARY INFORMATION: VA regulations at 38 CFR 2.6(e)(9) and 14.507 authorize the Department's General Counsel to issue written legal opinions having precedential effect in adjudications and appeals involving veterans' benefits under laws administered by VA. The General Counsel's interpretations on legal matters, contained in such opinions, are conclusive as to all VA officials and employees not only in the matter at issue but also in future adjudications and appeals, in the absence of a change in controlling statute or regulation or a superseding written legal opinion of the General Counsel.

VA published summaries of such opinions in order to provide the public with notice of those interpretations of the General Counsel which must be followed in future benefit matters and to assist veterans' benefit claimants and their representatives in the prosecution of benefit claims. The full text of such opinions, with personal identifiers deleted, may be obtained by contacting the VA official named above.

A summary of the General Counsel's opinion designated O.G.C. Prec. 9-90, Definition of Radiogenic Disease as used in 38 U.S.C. 312(c)(2) and 38 CFR 3.311(b)(2), requested by Chief Benefits Director (211C), is as follows:

Held: 38 U.S.C. 313(a) precludes establishment of presumptive service connection under 38 U.S.C. 312(c)(2) for a cancer listed therein which developed as a result of metastasis of a nonradiogenic cancer, i.e., a cancer not listed in section 312(c)(2). 38 CFR 3.311b(g) precludes establishment of service connection under 38 CFR 3.311b for a cancer listed therein which developed as a result of metastasis of a nonradiogenic cancer, i.e., in this situation, a cancer not listed in section 3.311b.

Dated: June 12, 1990.

Raoul L. Carroll,
General Counsel.

[FR Doc. 90-15130 Filed 6-28-90; 8:45 am]

BILLING CODE 8320-01-M

Summary of Legal Interpretation of the General Counsel-Precedent Opinion 98-90, VA Disposition of Residential Real Property Owned by Other Federal Agencies or Related entities

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is publishing a summary of a legal interpretation issued by the Department's General Counsel involving veterans' benefits under laws administered by VA. This interpretation is considered precedential by VA and will be followed by VA officials and employees in future claim matters. It is being published to provide the public, and, in particular, veterans' benefit claimants and their representatives, with notice of VA's interpretation regarding the legal matter at issue—is it legally permissible for the Secretary of Veterans Affairs to agree to manage and dispose of single-family residential properties on behalf of other Federal agencies or related entities?

EFFECTIVE DATE: April 23, 1990.

FOR FURTHER INFORMATION CONTACT:

Mr. Jay D. Farris, Chief, Law Library, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233-6442.

SUPPLEMENTARY INFORMATION: VA regulations at 38 CFR 2.6(e)(9) and 14.507 authorize the Department's General Counsel to issue written legal opinions having precedential effect in adjudications and appeals involving veterans' benefits under laws administered by VA. The General Counsel's interpretations on legal matters, contained in such opinions, are conclusive as to all VA officials and employees not only in the matter at issue but also in future adjudications and appeals, in the absence of a change in controlling statute or regulation or a superseding written legal opinion of the General Counsel.

VA publishes summaries of such opinions in order to provide the public with notice of those interpretations of the General Counsel which must be followed in future benefit matters and to assist veterans' benefit claimants and their representatives in the prosecution of benefit claims. The full text of such opinions, with personal identifiers deleted, may be obtained by contacting the VA official named above.

A summary of the General Counsel's opinion designated O.G.C. Prec. 8-90, VA Disposition of Residential Real Property Owned by Other Federal Agencies or Related Entities, requested by Director, Loan Guaranty Service (263), is as follows:

Held: The Department of Veterans Affairs may enter, under the provisions of title 31 U.S.C. 1535, into agency agreement with other Federal entities in which VA would agree to manage and dispose of residential properties under

the jurisdiction of the requesting entities on behalf of such entities.

Dated: June 12, 1990.

Raoul L. Carroll,
General Counsel.

[FR Doc. 90-15129 Filed 6-28-90; 8:45 am]

BILLING CODE 8320-01-M

Summary of Legal Interpretation of the General Counsel-Precedent Opinion 15-90, Benefit Determination Involving Validity of Marriage of Transsexual Veterans

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is publishing a summary of a legal interpretation issued by the Department's General Counsel involving veterans' benefits under laws administered by VA. This interpretation is considered precedential by VA and will be followed by VA officials and employees in future claim matters. It is being published to provide the public, and, in particular, veterans' benefit claimants and their representatives, with notice of VA's interpretation

regarding the legal matter at issue—Is a transsexual veteran, who undergoes sexual reassignment surgery and then marries a member of the veteran's original gender, entitled to the additional VA benefits normally provided on account of a spouse?

EFFECTIVE DATE: May 25, 1990.

FOR FURTHER INFORMATION CONTACT:

Mr. Jay D. Farris, Chief, Law Library, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233-6442.

SUPPLEMENTARY INFORMATION: VA regulations at 38 CFR 2.6(e)(9) and 14.507 authorize the Department's General Counsel to issue written legal opinions having precedential effect in adjudications and appeals involving veterans' benefits under laws administered by VA. The General Counsel's interpretations on legal matters, contained in such opinions, are conclusive as to all VA officials and employees not only in the matter at issue but also in future adjudications and appeals, in the absence of a change in controlling statute or regulation or a superseding written legal opinion of the General Counsel.

VA publishes summaries of such opinions in order to provide the public

with notice of those interpretations of the General Counsel which must be followed in future benefit matters and to assist veterans' benefit claimants and their representatives in the prosecution of benefit claims. The future text of such opinions, with personal identifiers deleted, may be obtained by contacting the VA official named above.

A summary of the General Counsel's opinion designated O.G.C. Prec. 15-90, Benefit Determinations Involving Validity of Marriage of Transsexual Veterans, requested by VA District Counsel (362/02), Houston, TX, is as follows:

Held: Under Texas law, where a veteran has anatomically changed his/her sex by undergoing sexual-reassignment surgery and has thereafter legally married a member of his/her former sex, his/her marriage partner may be considered the veteran's spouse for the purpose of determining entitlement to additional vocational rehabilitation allowance payable on account of a dependent spouse.

Dated: June 12, 1990

Raoul L. Carroll,
General Counsel.

[FR Doc. 90-15135 Filed 6-28-90; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register

Vol. 55, No. 128

Friday, June 29, 1990

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

MERIT SYSTEMS PROTECTION BOARD

TIME AND DATE: 2 p.m., Thursday, July 12, 1990.

PLACE: Eighth Floor, 1120 Vermont Avenue, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: Briefing and discussion of the Board's fiscal year 1991 research agenda.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Robert E. Taylor, Clerk of the Board, (202) 653-7200.

Dated: June 27, 1990.

Robert E. Taylor,
Clerk of the Board.

[FR Doc. 90-15302 Filed 6-27-90; 1:34 p.m.]

BILLING CODE 7400-01-M

Sunshine Act Meetings

These meetings are held for the purpose of discussing the Sunshine Act and its application to the various departments and agencies of the Government.

The meetings are held on a regular basis and are open to all interested parties. The purpose of these meetings is to provide a forum for the discussion of the Act and its application to the various departments and agencies of the Government.

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Testis Great Report Federal Register

Friday
June 29, 1990

Part II

Environmental Protection Agency

40 CFR Part 52

Approval and Promulgation of
Implementation Plans; Illinois; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 3787-8]

Approval and Promulgation of Implementation Plans

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Notice of final rulemaking.

SUMMARY: USEPA is today promulgating Federal revisions to the Reasonably Available Control Technology (RACT) rules for volatile organic compounds (VOC) contained in the Illinois State Implementation Plan (SIP) for ozone. These Federal revisions correct certain noted deficiencies in the existing RACT rules adopted by the State of Illinois. USEPA is promulgating the rules for the following six counties in the Chicago area: Cook, DuPage, Kane, Lake, McHenry, and Will. In addition, USEPA is taking final rulemaking on revisions to the Illinois ozone SIP submitted by the State.

DATES: The effective date of this rulemaking is July 30, 1990, for all sources located in Cook, DuPage, Kane, Lake, McHenry, and Will Counties in Illinois.

The date by which, and after which, these rules apply to all sources is the effective date, with the following exceptions:

These rules do not apply to Allsteel in Kane County and Viskase in Cook County until January 1, 1991.

The four perfluorocarbon classes listed below shall not be considered as volatile organic compounds or volatile organic material for the 3M Bedford Park facility in Cook County for a period of time not to exceed one year from the date USEPA acts on 3M's petition which seeks to have these perfluorocarbon classes designated as exempt compounds: (1) Cyclic, branched, or linear, completely fluorinated alkanes, (2) cyclic, branched, or linear, completely fluorinated ethers with no unsaturations, (3) cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations, and (4) sulfur containing perfluorocarbons with unsaturations and with sulfur bonds only to carbon and fluorine. USEPA will provide public notice in the *Federal Register* of its action on this petition.

The date by which all sources must achieve final compliance with these rules is July 1, 1991, with the following exceptions:

The four perfluorocarbon classes listed below shall not be considered as

volatile organic compounds or volatile organic material for the 3M Bedford Park facility in Cook County for a period of time not to exceed one year from the date USEPA acts on 3M's petition which seeks to have these perfluorocarbon classes designated as exempt compounds: (1) Cyclic, branched, or linear, completely fluorinated alkanes, (2) cyclic, branched, or linear, completely fluorinated ethers with no unsaturations, (3) cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations, and (4) sulfur containing perfluorocarbons with unsaturations and with sulfur bonds only to carbon and fluorine. USEPA will provide public notice in the *Federal Register* of its action on this petition.

Petroleum Refining and Related Industries: Asphalt Materials must submit to USEPA: (1) By September 1, 1990, a monitoring plan consistent with subpart R (section 215.446) of Illinois Administrative Code 215, and (2) by October 1, 1990, the first monitoring report pursuant to subpart R (section 215.449) of Illinois Administrative Code 215.

The incorporation by reference of certain publications in these rules is approved by the Director of the Office of the Federal Register (OFR) as of July 30, 1990.

ADDRESSES: The docket for the final Federal regulations (Docket No. 5A-89-1), which contains the public comments and the complete support documentation, is located for public inspection and copying at the following addresses. (It is recommended that you telephone Randolph O. Cano at (312) 886-6036 before visiting the Region V office.) A reasonable fee may be charged for copies.

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch, Twenty Sixth Floor, Southeast, 230 South Dearborn Street, Chicago, Illinois 60604.

U.S. Environmental Protection Agency, Docket No. 5A-89-1, Air Docket (LE-131), Room M1500, Waterside Mall, 401 M Street, SW., Washington, DC 20460.

A file on the Federal regulations is available at the following location: Illinois Environmental Protection Agency, Division of Air Pollution Control, 1340 North Ninth Street, Springfield, Illinois 62702.

In addition, a file related to USEPA's rulemaking action on the revisions to the Illinois ozone SIP submitted by the State has been prepared. The file, which contains copies of the SIP revisions, public comments, and support

documentation, is available at the addresses identified above.

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano, Air and Radiation Branch (5A-26), U.S. Environmental Protection Agency, Region V, Chicago, Illinois 60604, (312) 886-6036.

SUPPLEMENTARY INFORMATION:

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I. Background

A. *Wisconsin v. Reilly*

On January 18, 1989, pursuant to a complaint filed by the State of Wisconsin, Judge Evans of the United States District Court for the Eastern District of Wisconsin ordered USEPA to promulgate ozone implementation plans for northeastern Illinois and northwestern Indiana within 14 months (*Wisconsin v. Reilly*, No. 87-C-0395, E.D. Wis., January 18, 1989). On September 22, 1989, USEPA and the States of Illinois and Wisconsin signed a settlement agreement in an attempt to substitute a more acceptable schedule for promulgation of a plan for the control of ozone in the Chicago area. On November 6, 1989, the District Court vacated its prior order and ordered all further proceedings stayed pending performance of the settlement agreement.

The settlement agreement calls for the use of a more sophisticated air quality model (*i.e.*, a photochemical reactive grid model), allows more time for USEPA to promulgate a Federal Implementation Plan (FIP) using this model, and requires interim emission reductions while the modeling study is being performed. The interim emission reductions consist of Federal promulgation of revised VOC RACT rules for Illinois and, if necessary, for Indiana to remedy deficiencies in the

States' regulations. Specifically, the settlement agreement requires USEPA to: (a) Propose as federal measures by December 31, 1989, RACT rules, in accordance with the May 25, 1988, document entitled "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations" (also known as the "Blue Book"), for Illinois which remedy the deficiencies described in Exhibit B of the settlement agreement, and (b) promulgate by March 18, 1990, those rules for which Illinois fails to meet any of the 1989 interim milestones specified in Exhibit C of the settlement agreement; or six months after any 1990 interim milestone specified in Exhibit C, those rules for which Illinois fails to meet any of the 1990 interim milestones, but no later than December 31, 1990.¹² Exhibit C establishes the following milestones for the State: (a) by September 30, 1989—the Illinois Environmental Protection Agency (IEPA) proposals must be filed with the Illinois Pollution Control Board (IPCB), (b) by December 22, 1989—the IPCB must decide the Economic Impact Study question and publish the first notice, (c) by March 18, 1990—the IPCB must hold hearings and publish the second notice, and (d) by May 25, 1990—the Joint Committee on Administrative Rules must complete action and IPCB must adopt the final rule.

On December 27, 1989 (54 FR 53080), USEPA proposed to promulgate Federal revisions to the VOC RACT rules to correct all of the deficiencies described in Exhibit B. These deficiencies apply to nine different rules: Solvent Metal Cleaning, Surface Coating, Printing and Publishing Operations, Synthetic Organic Chemical Manufacturing Industry (SOCMI) Leaks, Petroleum Refinery Leaks, Pharmaceutical Manufacturing, Bulk Gasoline Plants, Major Non-CTG (Control Techniques Guidelines) Generic Rules, and General Provisions (which include definitions, test methods and procedures, a requirement that any alternative emission limitation or variance must be submitted to USEPA for approval, and procedures for determining the vapor

pressure of organics). In the Federal Register notice, USEPA also proposed rulemaking on revisions to the Illinois ozone SIP submitted by the State.

It should be noted that pursuant to the settlement agreement, IEPA submitted to the IPCB on September 29, 1989, a proposal for revisions to the State rules to correct some of the deficiencies described in Exhibit B. The IEPA proposal consisted of revisions which correct all of the deficiencies contained in three rules (SOCMI Leak, Bulk Gasoline Plant, and Solvent Metal Cleaning), but only some (or none) of the deficiencies contained in the other six rules. Thus, the State met the first milestone for some of the deficiencies. For the six rules containing deficiencies which are not included in IEPA's September 29, 1989, proposal, the settlement agreement, as modified by the Court's order of May 1, 1990, currently requires USEPA to promulgate these rules by June 8, 1990.

On October 5, 1989, the IPCB adopted IEPA's proposal for first notice. On October 5, 1989, the IPCB adopted IEPA's proposal for first notice. On October 27, 1989, the IPCB decided that an Economic Impact Study need not be prepared, thereby satisfying the second milestone with respect to the rules included in IEPA's proposal. Public hearings on these rules were held in December 1989 and January 1990.

On February 8, 1990, however, the IPCB removed two of the rules in IEPA's proposal (i.e., the Generic Rule and the SOCMI Leak Rule) and placed them in a subdocket. As a result of this separation of dockets, IEPA must under State law procedural requirements repropose the rule amendments to the IPCB. The IPCB's action means that it would not meet the third milestone for these two rules and that USEPA must federally promulgate the SOCMI Leak Rule by September 16, 1990 (i.e., six months after the missed 1990 milestone date).

On March 16, 1990, the IPCB issued its second notice on the remaining rules in IEPA's proposal. The second notice, however, stated that the IPCB will only proceed with a minor amendment to the Surface Coating Rule and some of the amendments to the General Provisions Rule; it will not proceed with the bulk of IEPA's proposal. Thus, the third milestone has been met for only a few of the deficiencies described in Exhibit B. The few rule revisions still alive in the State's rulemaking process are, however, too fragmented to be approved by USEPA as stand alone rules. Consequently, the IPCB's action means that USEPA must federally promulgate the Solvent Metal Cleaning Rule and

Bulk Gasoline Plant Rule also by September 16, 1990 (i.e., six months after the missed 1990 milestone date). Because the State has not corrected (and will not, in the near future, be able to correct) completely any of the deficient rules, USEPA must promulgate rules which correct all of the deficiencies. The expeditiousness demanded by the Court orders, necessitates USEPA to move forward with its promulgation at this time.

B. Summary of Today's Action

Today's final rulemaking addresses the Part D requirement for RACT for the Chicago portion of the Illinois SIP.³ Today, USEPA is taking final action: (a) to adopt Federal RACT rules for inclusion in the Illinois plan, (b) to approve certain pending State RACT rules for inclusion in the Illinois plan, and (c) to disapprove certain State RACT rules. In total, today's notice establishes a comprehensive set of RACT rules applicable to the sources in Cook, DuPage, Kane, Lake, McHenry, and Will Counties in Illinois.

USEPA is promulgating these Federal RACT rules to replace part or all of the federally approved individual State rules in the SIP. The resultant plan for Illinois consists of some federally approved (State) rules and some federally promulgated (Federal) rules. This mixed Federal-State rule approach provides the best model for the State to secure eventually a total federally approved State plan by indicating the corrections Illinois must make in its rules, and is consistent with the District Court's orders. USEPA hopes that this mixed Federal-State plan is only temporary. USEPA strongly encourages the State to adopt these Federal rules and submit them to USEPA for approval as a SIP revision.

In the spirit of establishing the State rules in the implementation plan, USEPA directs any source seeking a revision to the Federal rules to apply to the State initially to obtain a SIP revision. Upon submittal to and approval by USEPA, the revised State rule would replace the applicable Federal rule and would become the federally enforceable rule for that source. USEPA believes that it has met its responsibilities under section 110 with this notice of final rulemaking. Section 110(c) only requires the Administrator to " * * * promptly prepare and publish proposed regulations setting forth an

¹² On March 13, 1990, USEPA filed a Motion to Modify Settlement Agreement to Allow More Time to Promulgate Certain Interim Measures with the District Court. In its motion, USEPA asked that the March 18, 1990, promulgation date be extended to June 8, 1990. For several reasons, the March 18, 1990, deadline for final rulemaking has proved impossible to meet (i.e., rulemaking is very complex and raises a number of technical and legal issues; voluminous comments were received only shortly before the deadline; and coordinated review of and response to the comments among various USEPA Regional and Headquarters' offices is necessary). On May 1, 1990, the District Court granted USEPA's motion.

³ USEPA will address the RACT rules for Indiana, pursuant to the District Court's order, in a future Federal Register notice.

implementation plan * * * and, if necessary, * * * promulgate any such regulations * * *. It does not require the Administrator to be responsible also for promulgating subsequent revisions to this plan. Consequently, USEPA believes that a SIP revision, and not a FIP revision, is the appropriate way to initiate changes to the rules being promulgated today. Should the State fail to respond adequately to such a proposed SIP revision, the source may then pursue revision of the Federal rules through USEPA.

Finally, the State should also be aware that while RACT rules are an integral part of a part D plan, there are other equally important requirements that still need to be addressed in order to provide for attainment. USEPA expects the State to take the lead in adopting rules necessary to satisfy the remaining requirements of part D, regardless of USEPA's own efforts to develop an attainment FIP for the Chicago area.

II. Review of Public Comments

On December 27, 1989 (54 FR 53080), a notice of the proposed Federal rules and on USEPA's proposed action on certain State rules was published in the Federal Register. A public hearing on the proposed Federal rules was held in January 17, 1990. In response to requests made at the public hearing for additional time to comment on the proposed rules, on January 30, 1990, (55 FR 3073), USEPA extended the public comment period from February 16, 1990 until March 2, 1990.

Under the Administrative Procedures Act (APA) and the USEPA is responsible, following the public hearing and the public comment period, for considering seriously each piece of information submitted by the public and, based upon the comments making decisions on the final rules, including modifying the proposed rules, if appropriate. USEPA has carried out that duty. Modifications to the proposed rules, which are discussed below, have been made in response to the public comments. None of these modifications, however, has altered substantially the character of the original regulatory scheme and the Administrator has, therefore, determined that there is no need for further hearings or comments.

During the comment period, USEPA received 28 different sets of comments, including the public hearing transcript. A summary of the significant comments, criticisms, and new data submitted in written or verbal presentations during the public comment period, and USEPA's full responses are provided below. A more thorough listing of the

comments, along with USEPA's responses, is contained in the docket for this rulemaking (see "Public Comments and USEPA Responses on Notice of Proposed Rulemaking (54 FR 53080, December 27, 1989)", April 1990).

A. Procedural Issues

Comment: Several commentors stated that USEPA failed to give adequate notice for the public hearing (*i.e.*, at least 30 days notice) and, thus, has violated the requirements of the CAA, the APA, and 40 Code of Federal Regulations (CFR) 51.102. Consequently, the commentors charged that the hearing held on January 17, 1990, is insufficient, and that a new hearing is required. One commentor notified USEPA that he may now bring suit to require a proper public hearing. In conclusion, the commentors claimed that they were prejudiced by USEPA's failure to provide proper notice and that any rules subsequently adopted are void.

Response: Since April 1989, USEPA has solicited interest in the development of a FIP for ozone for the Chicago area. Such solicitation has included public meetings, publication of an advance notice of proposed rulemaking (ANPR) (see 54 FR 29063, July 11, 1989), maintaining a list of interested parties (note, there are over 180 names/parties currently on this list), and routinely notifying each person on its mailing list of significant developments. In the latest of a series of these public notifications, USEPA sent a letter on December 15, 1989, to each person on the mailing list concerning the January 17, 1990, public hearing. Contrary to the objections of the commentors that this notification was limited on scope and did not represent a prominent advertisement, USEPA believes that this letter did properly inform those expected to be most concerned with USEPA's rulemaking of the upcoming hearing. In fact, almost all of the parties that presented oral testimony at the hearing or presented written comments during the comment period were on USEPA's mailing list in December and were sent copies of the December 15 letter. Consequently, by directly notifying the known parties concerned with development of FIP rules, USEPA has more than satisfied any claim that it must publish an advertisement of the hearing in the area. (As noted below, such an advertisement is not required of USEPA to satisfy the public notice requirements.)

According to section 307(d)(5) of the CAA, the Administrator is required to * * * give interested persons an opportunity for the oral presentation

* * * of information.⁴ Beyond that, section 110(c)(1) of the CAA requires that, if the State held no "public hearing" on the plan, USEPA shall provide the "opportunity for such hearing". Neither of these sections, however, identifies a specific time period for public notice of such opportunity for "oral presentation" or "public hearing". The Federal Register Act (44 U.S.C. chapter 15, section 1508), however, states that a * * * notice of hearing or of opportunity to be heard, required or authorized to be given by an Act of Congress * * * shall be deemed to have been given, * * * when the notice is published in the Federal Register at such a time that the period between the publication and the date fixed in the notice for the hearing * * * is (1) not less than the time specifically presented for the publication of the notice by the appropriate Act of Congress; or (2) not less than fifteen days when time for publication is not specifically prescribed by the Act, without prejudice, however to the effectiveness of a notice less than fifteen days where the shorter period is reasonable." Because the CAA specifies no time for publication of the notice, the applicable standard is "not less than fifteen days", unless some shorter period would be reasonable. USEPA believes that the December 27 publication of its hearing notice fulfills the requirement for at least 15 days prior notice.

The public hearing requirements of § 51.102 only apply to States (*e.g.*, * * * States must conduct * * *; * * * (the State must prepare and return * * *; and * * * (the State must submit * * *). There is no provision in § 51.102 which imposes the requirements of this section on USEPA when it is required to promulgate a plan pursuant to section 110(c). Even if § 51.102 did apply to USEPA, then it should be noted that § 51.102(g)(2) allows the Administrator

⁴ The procedural requirements of the APA, rather than the CAA, apply to the portions of this rulemaking involving approval of the State rules. It should be noted that section 553(b) of the APA states that the NPR shall include * * * statement of the time, place, and nature of public rule making proceedings * * *. In addition, it requires that * * * the agency shall give interested persons an opportunity to participate in the rule making through submission of written data, views, or arguments with or without opportunity for oral presentation." Thus, informal (or notice-and-comment) rulemaking under the APA does not require the Agency to hold any oral hearings. Consequently, USEPA believes that its holding of a public hearing (with prior notice), and its acceptance of public comments for more than two months after publication of the NPR, fully satisfies the requirements of the APA to the extent they apply here.

to accept procedures different from those identified in § 51.102(d) (e.g., with respect to 30 days prior notice), if these alternate procedures ensure public participation and provide "adequate public notification of the opportunity to participate." As discussed above, USEPA believes it has provided adequate notification.

Comment: Two commentors pointed out that it was inappropriate for USEPA to simply receive comments at the hearing and not explain or clarify its proposed actions. One commentor claimed that the opportunity for rebuttal presumes the Agency will answer questions at the hearing. Another commentor stated that USEPA should schedule an additional hearing, giving proper notice, at which it provides testimony or information regarding the effect and scope of these rules and answers industry's questions regarding these rules and their implementation.

Response: USEPA feels that the public hearing held on January 17, 1990, fulfilled the obligations in the CAA to "give interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to an opportunity to make written submissions." The appropriate forum for responding to public comments is the final rulemaking notice published in the *Federal Register*, which USEPA has done here. Congress considered and rejected a requirement in the CAA that USEPA be subject to cross-examination at its public hearings. (See *Small Refinery Lead Phase-Down Task Force v. USEPA*, 705 F. 2d 506, 521-522 (D.C. Cir. 1983) citing H.R. 6161, 95th Cong., 1st session Section 305(a), 307(d)(5)(B) (1977).)

Comment: Several commentors felt that the comment period was not sufficient. Some felt that once the record is complete, a minimum of 30 additional days from then is appropriate. Some felt that the 65 days provided was not enough time to review the record and submit comments. One commentor had just received information in response to a Freedom of Information Act (FOIA) request at the end of the comment period and did not have time to review the information and prepared comments.

Response: Section 307 of the CAA requires USEPA to "allow any person to submit written comments, data, or documentary information * * *". No time period is specified. Typically, the comment period is 30-60 days. USEPA provided as much time as possible within the court-sanctioned schedule. The comment period was extended once in response to concerns expressed at the public hearing. Providing additional time would further hinder USEPA's ability to

comply with the Court orders. In the case of the commentor who had just received a response to its FOIA request, an extension is also unwarranted because USEPA did not directly consider the information received under the FOIA request in the development of the proposal. Furthermore, section 307(d)(5)(A)(iv) specifically states that "the Administrator shall keep the record of such proceeding open for thirty days after completion of the proceeding to provide an opportunity for submission of rebuttal and supplementary information." USEPA believes that the 45-day post-hearing period for comments meets this requirement.

Comment: Several commentors stated that USEPA was required to perform a Regulatory Impact Analysis (RIA) because the expected cost impacts shown in the technical support document (TSD) exceeded \$100 million per year (e.g., the annual impacts associated with only the generic rule were estimated in the initial draft TSD to be \$168.5 million).

Response: The annual costs of the regulation have been reviewed and revised, and are still estimated at less than \$100 million/yr; thus, no RIA is required. The draft technical support document presented impacts on two different baselines, the SIP baseline and the State rule baseline. The SIP baseline approach did not recognize any State regulations which had not been previously approved as part of Illinois' ozone SIP. Therefore, it assumed that all sources which would be regulated by a proposed Federal rule (which had no comparable federally approved SIP rule, such as the generic rule) were uncontrolled sources. The second approach was that of the State rule baseline, which recognized that many sources were already subject to a State regulation and required to have controls in place.

USEPA clearly stated in the TSD that it " * * * believes that the actual impact of the proposed Federal rules is closer to those calculated with respect to the State rule baseline." Most sources which have controls in place to comply with the State rule may not need to replace or alter their control equipment or operating procedures to comply with the comparable Federal rule. Therefore, the true impacts would be best estimated by considering the incremental impacts attributed to the sources subject to the proposed Federal rule which were not subject to the State rule.

The \$168.5 million annual cost cited by the commentor represents the compliance cost of the generic non-CTG rule under the SIP baseline. The true impact of the generic rule which USEPA

expects is that calculated on the State rule baseline, which is considerably less (on the order of \$9 million annually). USEPA recognizes that the dual impact approach had the potential to cause confusion, but feels that the TSD clearly outlined the rationale regarding the impacts presented. However, to avoid further confusion, the final version of the TSD only displays impacts on one basis, that of the State rule baseline.

Comment: Several commentors believed that USEPA had not provided a sufficient statement of basis and purpose as required by section 307(d) of the CAA. Objections include the absence of "sufficient factual data" in the notice and the docket, no analysis or interpretation of the data provided, no explanation of the reasoning, and no legal or technical basis for many of the proposed rules. Another felt that USEPA had not clearly articulated its objectives in advancing this proposal. One of the commentors believed that USEPA improperly delegated its statutory duty to prepare a statement of basis and purpose to a private contractor.

Response: Section 307(d)(3) of the CAA requires that the NPR shall be published in the *Federal Register*, shall be accompanied by a statement of its basis and purpose, and shall specify the period available for public comment. The statement of basis and purpose shall include a summary of: (a) The factual data on which the proposed rule is based, (b) the methodology used in obtaining the data and in analyzing the data, and (c) the major legal interpretations and policy considerations underlying the proposed rule.

Because the requirements of section 307(d)(3) (e.g., statement of basis and purpose) apply to the promulgation of an implementation plan by the Administrator under section 110, USEPA needs to ensure that a statement of basis and purpose is provided for the proposed Federal rules. The preamble in the NPR is intended to serve as the statement of basis and purpose for the Federal rules, as noted in the "Document Drafting Handbook", OFR, April 1986. The preamble appeared on pages 53081-53094 of the December 27, 1989, *Federal Register*. These 14 pages: (1) Present the background for the proposed rulemaking; (2) address USEPA's proposed action on various State submitted rules; (3) address USEPA's proposed Federal rules; (4) present a tabular summary of the VOC rules for Illinois; (5) summarize the environmental and economic impacts of the proposed Federal rules; and (6) review various regulatory analyses (e.g.,

impact on small entities, and reporting and recordkeeping requirements).

The factual data on which the proposed rule is based, as well as the methodology used to obtain and analyze these data, are summarized on pages 53081-53085, and 53089-53091. On these pages, USEPA addressed its RACT guidance, the application of this guidance to identify deficiencies with the State's RACT rules, and the reasons for the proposed Federal revisions. USEPA believes that these pages summarize the basis for its proposed rules.

The major legal interpretations and policy underlying the proposed rule are reviewed on pages 53081-53083 and 53087-53089. On these pages, USEPA discussed its CAA authority for promulgating Federal rules, the history of Illinois' efforts to adopt a SIP, the lawsuit and subsequent court orders directing USEPA to promulgate these RACT rules, the need for stationary source RACT control, the applicability of the proposed rules to specific nonattainment and attainment counties in the Chicago area, and the relationship of the Federal rules to the existing federally approved State rules. USEPA believes that these pages summarize the major legal and policy issues involved in this rulemaking.

Finally, the use of contractor assistance by the Agency in carrying out its mandates is not unusual and was proper in this instance. Although the contractor prepared a draft of the preamble, USEPA reviewed and revised it, as necessary. Nothing in section 307(d) of the CAA prohibits USEPA from delegating initial drafting work to a contractor.

Comment: One commentator stated that the TSD appears to have been finalized after the proposal was received at the OFR for publication. Therefore, USEPA could not have considered the TSD in preparing the NPR, even though the TSD is supposed to be the statement of basis and purpose for the NPR.

Response: The NPR was sent to the OFR on December 18 and was scheduled for publication during the week of December 24. The TSD included in the docket, although dated December 26, was essentially completed by December 5.⁵ The only reason the date

of December 26 appeared on the TSD was to match the TSD with the NPR by date. In retrospect, USEPA admits that assuming the earliest possible publication date of the NPR (during the week of December 24) as the date of the TSD has created some confusion, and realizes now that it should have simply maintained the December 5 date.

Comment: Several commentators claimed that USEPA has violated section 307(d)(6) of the CAA because it failed to have a complete rulemaking record available for public inspection prior to the public hearing. Items which were cited as missing included: (a) Previous SIP revision proposals and USEPA's disapproval process, (b) supporting documentation for CTGs and the Blue Book, (c) information related to the draft guideline on capture efficiency testing, (d) background documents for post-87 policy, (e) State proceedings that interpret the CTGs and their applicability to Illinois industries, and (f) dockets from IPCB rulemaking.

Response: All information relied upon by USEPA in developing its proposed rules were included in the docket at the time of the proposal. Several items, although not relied upon by the Agency for proposal, have been subsequently placed in the docket at the request of these commentators. Additional information, such as public comments, were included promptly upon receipt. Regarding the specific items reported missing, USEPA wishes to note that the relevant CTGs, the post-1989 policy, and the draft guideline on capture efficiency were included in the docket. USEPA believes, however, that it is not necessary to include background information on all of these documents, as well as previous State SIP revision proposals or proposals, because USEPA is not rulemaking on the background material and these SIP proposals or proceedings at this time. Also, although the complete IPCB rulemaking dockets were not available to USEPA, the full IEPA submittals (which contained much of the IPCB dockets) were included in the docket for this rulemaking (section XIX: Additional Information About Illinois State Rules) and were available upon request at the Region V office.

B. General Issues

1. Statutory Authority

Comment: Several commentators believed that there is inadequate statutory support for USEPA's proposal. They felt that to propose Federal rules simultaneously with section to propose disapproval of State rules is inconsistent with the spirit and letter of the CAA; that USEPA must allow the State the

opportunity to revise its own rules, pursuant to the provisions of section 110(c); and that USEPA may promulgate its own FIP only when a SIP fails to satisfy the requirements of section 110(a)(2) (A)-(H), the revision is disapproved by USEPA in final rulemaking, and the State is notified of the deficiency by USEPA and the State fails to remedy the deficiency in a timely manner.

Response: The commentators fail to grasp the significance of the District Court's January 18, 1989, and November 6, 1989, orders. Very simply, Judge Evans has found that the Chicago area is not in attainment of the ozone National Ambient Air Quality Standards (NAAQS), the statutory attainment date has past, the State has failed to submit a plan meeting the requirements of part D of the CAA, and USEPA is now required by the terms of the CAA to promulgate a plan which must provide for attainment. Although Judge Evans initially ruled on January 18, 1989, that USEPA must promulgate a full attainment plan by March 18, 1990, his order of November 6, 1989, anticipates that only certain interim control measures need be adopted (either by Federal promulgation or by State submittal) by that date. It should, therefore, be understood that the expeditious promulgation of RACT rules as Federal measures is proceeding as an alternative to the promulgation of a full attainment FIP within this same timeframe, as initially ordered by Judge Evans. Furthermore, the timeframes and procedures referred to by the commentators were those envisioned to be effective prior to the statutory attainment date of December 31, 1987, before which it was assumed that the States were making reasonable efforts towards attainment. Because attainment of the ozone NAAQS was not achieved in Northeast Illinois by that date, Judge Evans found that USEPA must act expeditiously to meet its legal obligations under the CAA. The contemporaneous proposal to disapprove certain State rules and to promulgate substitute Federal rules is in keeping with the expeditious manner in which the Agency must act in the post-1987 era in order to meet its obligations under the CAA and the Court orders.

USEPA's proposal and promulgation of RACT rules for Illinois is consistent with and mandated by its responsibility under section 110(c)(1)(B) and section 110(c)(1)(C) of the CAA. Section 110(c)(1)(B) of the CAA states that the Administrator shall promulgate such a Federal plan if " * * * the plan, or any portion thereof, submitted for such State is determined by the Administrator not

⁵ The first draft of the TSD was delivered by the contractor to USEPA on October 20, 1989. Subsequent revised drafts were delivered on November 17, 1989, and December 5, 1989. USEPA considers the December 5, 1989, draft, along with a few subsequent minor revisions, to represent the final TSD for the proposed rulemaking.

to be in accordance with the requirements of this section." In its January 18, 1989, order, the Court stated that "once a State plan is disapproved, the Administrator has a nondiscretionary duty to formulate a Federal plan * * *. In view of USEPA's September 30, 1988, disapproval of the Illinois SIP, the Court found that * * * an order requiring the Administrator to perform his statutory task is appropriate." As noted above, on November 6, 1989, the Court vacated its original order, allowing an ozone implementation plan to be set in place under the terms of the settlement agreement entered into by the parties. One of USEPA's interim requirements (prior to promulgating the full plan) under the settlement agreement is to adopt VOC RACT rules for Illinois in the event that the State fails to adopt and submit to USEPA approvable rules itself. Thus, these RACT rules are being promulgated by USEPA pursuant to its authority under section 110(c)(1)(B) to promulgate a plan that will provide for attainment and maintenance of the ozone NAAQS in northeastern Illinois. In that the settlement agreement identified the RACT deficiencies, and accounted for their correction, the Court has already acknowledged that pursuant to section 110(c)(1)(B), Federal promulgation of rules to correct certain RACT deficiencies is necessary.

Furthermore, on May 26, 1988, pursuant to section 110(a)(2)(H) of the CAA, the USEPA Region V Regional Administrator, Valdas V. Adamkus, notified Illinois Governor James R. Thompson that the Illinois SIP (including portions of the SIP that USEPA has approved) was substantially inadequate to attain and maintain the ozone NAAQS in the Chicago-Gary-Lake County (IL), IL-IN-WI consolidated metropolitan statistical area (CMSA). USEPA called upon Illinois to revise its SIP to correct a number of deficient VOC RACT rules, and to adopt a number of other rules deemed necessary by USEPA. These rules were to be promulgated and submitted to USEPA by August 1989. Because Illinois did not complete these actions, and thus failed to respond adequately to USEPA's SIP Call, section 110(c)(1)(C) provides further authority for USEPA to promulgate RACT rules.

In addition, USEPA believes that the settlement agreement provided the State with sufficient notice of deficiencies in its implementation plan which must be revised by a certain date. It specifically commits Illinois to submit to USEPA * * * some or all of the reasonable available control technology (RACT)

rules and RACT rule improvement specified for Illinois in Exhibit B." Although the settlement agreement was signed in late September 1989, USEPA provided Illinois with information regarding all of the Exhibit B deficiencies as early as June 1989. Thus, not only was Illinois informed and aware of those portions of its plan which needed revision, but it agreed to the timeframe for revising its plan. In other words, USEPA (and the State) clearly established the period for the State to revise its implementation plan (pursuant to section 110(c)(1)(C)).

Given the short timeframe for Federal promulgation, USEPA decided to propose all revisions even though Illinois was attempting to adopt some of the RACT rule revisions. As noted in the NPR, if the State adopts these proposed revisions according to the schedule set forth in the settlement agreement, then USEPA would approve State rules (and promulgation of related Federal rules may not be necessary for some of these rules). However, as noted above, the IPCB recently deferred action on all but a few "partial" rules. These "partial" rules are too fragmented to be accepted as stand-alone Federally-approved rules. Therefore, USEPA must proceed with Federal promulgation on rules which correct all of the deficiencies. USEPA, of course, still encourages and expects the State to adopt rules meeting these Federal requirements as its own and submit them to USEPA for approval as SIP revisions.

With regard to the new rules Illinois has submitted for approval, USEPA would normally first disapprove deficient State rules and then allow the State a short period of time to adopt corrected rules. In this case, however, USEPA is under court order to promulgate RACT rules by June 8, 1990. In addition, for many of the deficient rules, USEPA has already informed Illinois either verbally or in writing of the specific deficiencies in the rules. Further, USEPA has not seen any indication for Illinois that it intends to proceed promptly to promulgate RACT rules either in response to USEPA's SIP Call or USEPA's proposal to promulgate Federal RACT rules pursuant to Judge Evans' order. Thus, it appears that providing Illinois a short time to correct the noted deficiencies would not be productive in this case. Nothing in the CAA requires USEPA to give the State additional time under these circumstances.

Comment: Several commentors felt that USEPA had exceeded its authority by proposing a Federal plan that goes beyond the scope of the SIP Call and the

settlement agreement. One commentor stated that they had supported the settlement agreement with the understanding that: (a) No additional rules would be adopted until the modeling study was completed, (b) enhancements to the State's motor vehicle inspection and maintenance program were adopted, (c) only the deficiencies listed in USEPA's SIP Call were corrected, and (d) USEPA would only promulgate rules to correct deficiencies which Illinois did not adopt through its current rulemaking effort before the IPCB.

The commentors felt that the proposed rules go far beyond the settlement agreement in many areas and the USEPA should limit this rulemaking to just those deficiencies listed in its SIP Call. Specifically, 7 of the 22 deficiencies listed in Exhibit B of the settlement agreement (coke oven by-product plant rule, SOCM leak rule, specialty high gloss catalyzed coatings rule, power driven fastener coatings rule, pharmaceutical manufacturing rule, generic rule, and heavy off-highway vehicle products/diesel electric locomotive coating rule) were not listed in the SIP Call and, thus, should not be included in this rulemaking. Furthermore, five issues raised in the NPR are not even mentioned in Exhibit B (internal offset rule, marine propulsion equipment coatings rule, pharmaceutical manufacturing rule, printing and publishing rule, and heatset web offset rule) and, thus, should not be included in this rulemaking.

The commentor believed that USEPA is using the settlement agreement as a means to promulgate a FIP for northeastern Illinois. Promulgation of rules beyond the correction of specific RACT rule revisions before completion of the new modeling study is inappropriate. If these rules are later found to be unnecessary, then it will be difficult, if not impossible, to un-do them.

One commentor noted there is no reason to conduct the modeling study if USEPA adopts such extensive rules that it renders the purpose of the study moot. That commentor believed that the settlement agreement intended that the Federal rules be in effect only until the modeling study is completed.

The State of Wisconsin stated that the proposed Federal rules address the objectives and commitments of the settlement agreement, and encouraged expeditious adoption and implementation of the proposed rule changes.

Response: Here, too, most of the commentors fail to grasp the

significance of the District Court's January 18, 1989, and November 6, 1989, orders. As noted above, Judge Evans has found that the Chicago area is not in attainment of the ozone NAAQS, the statutory attainment date has past, the State has failed to submit an approvable part D plan, and USEPA is now required to promulgate a plan which must provide for attainment. Consistent with the Judge's orders, USEPA must expeditiously promulgate certain interim control measures as identified in Exhibit B while it is also developing a full attainment plan. This plan, as provided for by the settlement agreement, is to be based on a more sophisticated air quality modeling analysis. Available air quality analyses (e.g., see the July 11, 1989, ANPR) indicate that the ultimate emission reduction needed for attainment is so large that these rules are necessary, although not sufficient, to provide for attainment. As noted in the NPR, reductions beyond the level of control in the CTGs may even be necessary. These rules do, however, provide for progress towards attainment, while a full attainment plan is being developed. These rules are necessary to comply with the RACT and reasonable further progress (RFP) requirements of section 172(b)(3) of the CAA, unless and until the subsequent air quality modeling indicates that they are not needed to demonstrate attainment, which is an unlikely result given the available information.

The commentors' claim that only those deficiencies specifically identified in the June 17, 1988, letter associated with the May 1988 SIP Call to Illinois should be corrected lacks merit because, as stated in the June 17, 1988, letter: (a) Deficiencies were specified in that letter only for previously approved rules, (b) the State must modify those previously submitted rules, for which USEPA had not yet completed its review, should USEPA determine these rules do not satisfy Federal requirements, and (c) the State was told to review independently its rules against USEPA's RACT guidance and correct any other deficiencies. Thus, USEPA maintains that the scope of the SIP Call is broader than the 16 specified deficiencies. In any case, USEPA believes that the proposed rules are, for the most part, consistent with Exhibit B of the settlement agreement.

The commentor's objection to USEPA's consideration of certain outstanding rules is inconsistent and partially incorrect. The commentors have not objected to the inclusion of certain other rules not cited in Exhibit B

which USEPA has proposed to approve in this rulemaking. The commentors also have not recognized that deficiencies with the internal offset, pharmaceutical manufacturing, printing and publishing, and heatset web offset rules are cited in Exhibit B. Although the marine propulsion equipment coating rule was not cited in Exhibit B, USEPA believes both that it would be inappropriate to include this subsequently identified deficiency in its comprehensive Federal coating rule that it can promulgate a rule which corrects this deficiency pursuant to its authority under section 110(c)(1)(B), which provide for USEPA promulgation of a plan when the submitted State plan does not comply with the CAA.

Comment: One commentor believed that, since Illinois is in compliance with the settlement agreement, most of the proposed rules are not necessary. One commentor asked which of the proposed rules USEPA will take action on by March 18, 1990, and how IPCB approvals will affect the FIP proposal.

Response: Pursuant to the settlement agreement, the State of Illinois agreed to submit to the USEPA, " * * * some or all of the reasonably available control technology (RACT) rules and RACT rule improvements specified for Illinois in Exhibit B * * * ". As noted above, IEPA proposed only some of the deficiencies to the IPCB by the required date. Thus, most of the deficiencies remain unaddressed by the State. Furthermore, the IPCB has not adopted enough of IEPA's proposal to correct completely even one rule. Consequently, as above, USEPA cannot defer to the State any longer and it is, therefore, necessary for USEPA to move forward now with promulgation of Federal rules to correct all of the deficiencies, in order to satisfy its obligation to the court under the CAA.

2. Federal/State Rule Mix

Comment: Most commentors objected to the alternate proposal of a comprehensive set of Federal rules, stating that this option exceeded USEPA's statutory authority and its obligations under the settlement agreement. One commentor did not understand the role of the existing State rules and questioned whether they would continue to be in effect, and whether the proposed generic rule would replace the existing State generic rule. The commentor felt that the overlap of Federal/State rules was confusing. Another commentor expressed support for a mixed Federal/State plan, but felt it should comprise, as much as possible, federally approved State provisions, since the CAA places

the obligation for attaining and maintaining the NAAQS upon each individual State. One commentor stated, however, that in no instance could they support either a permanent mix of Federal and State rules or a comprehensive set of Federal rules. The mix would only complicate compliance matters for the regulated community, and the comprehensive plan would ignore the years of State rulemaking proceedings.

Still another commentor stated that they supported a Federal/State rule mix, but a very temporary and limited one, and not permanent Federal rules in any case. However, the commentor noted that the Federal/State rule mix will leave the regulated community in a State of confusion regarding what is the applicable rule.

IEPA supported the mixed Federal/State combination of rules. IEPA cited several problems with a comprehensive set of Federal rules (i.e., needless duplication of effort, enforcement difficulties, conflicting language, needless duplicate regulation, and inconsistency with the terms of the settlement agreement). IEPA did, however, urge USEPA to limit applicability of the Federal definitions to the Federal rules being promulgated to avoid any alteration of State rules, and Federal interpretations which would violate the decision by the United States Court of Appeals of the Seventh Circuit in the case of *Bethlehem Steel Corp. v. Gorsuch*, 742 F.2d 1028 (7th Cir. 1984), described more fully below.

Response: After reviewing the public comments on this issue, USEPA shares the position with the majority of commentors that the mix-match approach is the best option as the interim approach, until Illinois submits and USEPA approves substitute SIP rules. The resultant plan for Illinois will now consist of some federally approved (State) rules and some federally promulgated (Federal) rules. USEPA believes that this approach provides the best model for the State to secure eventually a total federally approved SIP, by highlighting the changes Illinois must make to its rules to gain full USEPA approval. To clarify which rules are federally promulgated rules (i.e., FIP rules) and which rules are federally approved State rules (i.e., SIP rules) under this mixed Federal-State plan approach, USEPA has included a document with the complete set of rules in the docket for this rulemaking action. This document contains all of the RACT rules for the Chicago area and indicates which rules are Federal rules and which are State rules. USEPA believes that this

document is sufficiently clear to avoid any confusion as to which provisions apply to a particular source.

In the NPR, USEPA specifically requested public comment on an alternative approach (i.e., a comprehensive Federal plan) because of the effect of several changes proposed, by USEPA, including changes to the definitions, the test methods and procedures, and the exemptions, variances, and alternative means of control portions of the General Provisions section. The General Provisions section applies to each of the individual source category rules. It could, therefore, be argued that changes to the General Provisions section result (indirectly) in changes to the individual source category rules. If USEPA relied on its previous approval of the State rules for the individual source categories (while changing portions of the General Provisions section), then USEPA may be making the original State rules more stringent as a matter of Federal law than Illinois had initially intended. This may conflict with a decision by the United States Court of Appeals for the Seventh Circuit in the *Bethlehem* case.

The Circuit Court, in the *Bethlehem* case, ruled that USEPA could not, through its authority to partially approve or disapprove a plan revision, make a plan more stringent than the State had ever intended it to be. The Court did, however, indicate that USEPA could modify the plan through formal rulemaking under section 110(c) rather than through partial SIP approval. USEPA believes that its adherence to the procedural requirements of sections 110(c) and 307(d) of the CAA in proposing and promulgating the Federal RACT rule revisions avoids the procedural issue identified in *Bethlehem* and hence is consistent with the Court's ruling.

Furthermore, in its comments, IEPA endorsed the mix-match approach. Although it is not clear whether IEPA's letter represents "State intent", USEPA recognizes it as the only comment received on this matter from any State agency or office. IEPA did, however, urge USEPA to limit the applicability of the Federal definitions to the Federal rules. IEPA believed that such a limitation would avoid any alteration of State rules contrary to State intent and would result in compliance with the *Bethlehem* decision. The Court in *Bethlehem* was primarily concerned with federalism issues and the adverse effect of USEPA's partial approval in altering State rules contrary to State intent. USEPA has limited applicability of its definitions to the final Federal

rules. By restricting the applicability of its definitions, per the State's recommendation, USEPA believes that the federalism concerns raised in the *Bethlehem* decision will not be implicated. In fact, federalism is served by the mix-match approach (with the limitation on the Federal definitions) by allowing many State rules to remain in effect under the SIP.

Comment: Two commentors believed that under either approach, USEPA's proposal would serve to supplant the entire Illinois regulatory system. USEPA's rules will in effect put the State entirely out of the business of making and enforcing regulations. The commentors maintained that this is contrary to the structure and intent of the CAA for a Federal-State partnership.

Response: Once again, the commentors fail to grasp the significance of the District Court's January 18, 1989, and November 6, 1989, orders. As noted above, Judge Evans has found that the Chicago area is not in attainment of the ozone NAAQS, the statutory attainment date has past, the State has failed to submit an approvable Part D plan, and USEPA is now required to promulgate a plan which must provide for attainment. Pursuant to the Judge's orders, USEPA must expeditiously promulgate certain interim control measures while it is also developing a full attainment plan.

The Federal-State partnership envisioned by the CAA did not result in attainment of the ozone NAAQS for Northeast Illinois by December 31, 1987. The State's failure to submit an approvable SIP resulted in litigation, the result of which was a court order directing USEPA to assume control of ozone planning for Northeast Illinois. This burden shifted from the State to USEPA when USEPA disapproved in final the Illinois SIP on September 30, 1988. In its January 18, 1989, order, the District Court found that USEPA was " * * * now under an obligation to formulate a federal plan."

USEPA's need to move forward on a Federal plan (and to no longer defer to the State) is further supported by the absence of State corrections for the deficiencies identified in the 1988 SIP Call and in Exhibit B of the settlement agreement (i.e., formal notification under section 110(a)(2)(H) of the CAA and court orders have not been enough to prompt the State to act). Because the State has not revised its own plan, the Court has found that the CAA mandates that USEPA step in and do the State's job.

3. General Comments Regarding Federal Rulemaking

Comment: The Illinois Environmental Regulatory Group (IERG) stated that its March 2, 1990, comments represent its notice, pursuant to section 304(b) of the CAA, of its intent to file a citizen's suit in Federal District Court if USEPA fails to cure the deficiencies noted in its comments.

Response: USEPA acknowledges IERG's notice, but believes that any such notice is premature until USEPA has taken final action. USEPA wishes to point out that it has addressed each pertinent comment, but does not agree with many of the comments. Thus, USEPA will not be modifying its proposed rules or rulemaking procedures as desired by the commentor. IERG's recourse after final action is to seek review from the United States Court of Appeals for the Seventh Circuit under section 307(b) of the CAA. Section 304(b) of the CAA does not give district courts jurisdiction to review final agency actions.

Comment: Two commentors felt that USEPA is "tilting the playing field" against Illinois. One commentor stated that this cannot be justified and is not intended under either the CAA or the settlement agreement. Deficiencies were noted in the settlement agreement for Indiana and Wisconsin, but USEPA has not initiated action on these deficiencies. There appears no certainty that the Wisconsin RACT deficiencies will be corrected any time in the near future.

Response: Both Indiana and Wisconsin submitted draft regulations to USEPA, during 1989, addressing virtually all of their deficiencies. All of Indiana's and Wisconsin's rule corrections have now been submitted to USEPA in final (or near final) form. There is no indication that Illinois is close to finalizing (or even proposing) approvable RACT rules. Thus, Federal promulgation is the surest means of "leveling the playing field" in the near term. The commentor should also realize that pursuant to the settlement agreement, USEPA is responsible for ensuring that the Indiana RACT rules are corrected (either through federal promulgation or approval of an adequate SIP revision), but that Wisconsin is solely responsible for ensuring that its RACT rules are corrected.

Comment: One commentor believed that the proposed regulations are unduly burdensome and provide little or no benefit in terms of VOC reductions or progress toward attainment. Another

commentor claimed there was no documented air quality benefit and the NPR is regulation for regulation sake. On the other hand, another commentor noted that this proceeding does not deal with air quality; RACT is based on technical feasibility, economic reasonableness, and other factors; and air quality is not a direct consideration of RACT under the CAA.

Response: Once again, the commentors fail to grasp the significance of the District Court's January 18, 1989, and November 6, 1989, orders. As noted above, Judge Evans has found that the Chicago area is not in attainment of the ozone NAAQS, the statutory attainment date has past, the State has failed to submit an approvable Part D plan, and USEPA is now required to promulgate a plan which must provide for attainment. Pursuant to the Judge's orders, USEPA must expeditiously promulgate certain interim control measures while it is also developing a full attainment plan. These rules are necessary requirements of section 172(b)(3) of the CAA, pending development of the full attainment plan.

USEPA believes that the impacts associated with the Federal regulations are reasonable for these source categories in general, although the regulations will impact individual companies differently. Due to the lack of specificity, the argument provided by the commentor is not convincing that impacts are excessive or unreasonable. USEPA did give attention and consideration to those companies that contended that the regulation was unreasonable for their situation and that provided information to support their assertion. These companies are discussed in section E below.

The ultimate emission reduction needed for attainment is so large that these rules are necessary, although not sufficient, to provide for attainment. As noted in the NPR, reductions beyond the level of control in the CTGs may even be necessary. These rules do, however, provide for progress towards attainment, while a full attainment plan is being developed. In addition, the CAA requires implementation of RACT for these sources without regard to the extent of emission reductions attributable to such technology.

Comment: One commentor believed that USEPA must attempt to minimize the cost and distribute the regulatory burden in connection with demonstrating attainment in the Chicago area, and consider the reductions that could occur in mobile source emissions. The commentor cited an analysis which purports to show that the Federal Motor Vehicle Control Program is likely to

provide significant VOC reduction over the next 5 years and that such automobile emission reductions are very likely to be enough for attainment of the NAAQS.

Also, IPCB recently took steps to reduce volatility from mobile sources by adopting Gasoline Volatility Rules. Illinois is investigating even more stringent controls on mobile sources in order to reduce ozone. The stationary source controls proposed in the NPR clearly would result in overcontrol and unreasonable total cost.

Response: As a first step towards promulgating a complete FIP pursuant to the Court orders, and in addition to it being a condition of the settlement agreement, USEPA believes that it is appropriate to take rulemaking action now on RACT rules for the greater Chicago area for the following reasons. First, the CAA requires that States submit SIPs that implement all reasonably available control measures as expeditiously as practicable and make reasonable further progress toward attainment through the implementation of RACT at a minimum on existing sources in nonattainment areas. These rules will provide interim emission reductions while USEPA and the States develop a full attainment demonstration and other necessary control requirements. USEPA has maintained this interpretation of the RACT requirement in these circumstances since 1979 (see 44 FR 20372, April 4, 1979, and 46 FR 7182, January 22, 1981).

Second, traditional stationary source RACT rules are easier to both develop and implement than innovative areawide controls and transportation control measures. Thus, they represent a logical way to achieve reasonable further progress during the period before USEPA can develop a full-scale attainment FIP. Furthermore, the legislative history of the CAA demonstrates Congress' desire that transportation/motor vehicle controls be dealt with by State and local governments. Accordingly, Congress adopted part D sanctions to create a new means of inducing such State/local planning.⁸ Thus, Federal promulgation of motor vehicle controls as a first step towards attainment does not seem appropriate.

Third, USEPA is confident that given the large emission reduction shortfall in

the Chicago area, as described in the July 11, 1989 ANPR (54 FR 29063), all of these requirements plus numerous other areawide and transportation controls (and perhaps tightening of stationary source controls beyond RACT) will be necessary to support any attainment demonstration for the Chicago area.

Finally, Illinois has already completed rulemaking and submitted several RACT rules. It is appropriate for USEPA to act on these rules as SIP revisions and at the same time promulgate Federal measures to enhance the RACT provisions as necessary to meet the statutory and regulatory requirements.

In addition, the analysis cited by the commentor suffers from several faults. First, no quantitative estimate of the reduction in VOC emissions required to attain and maintain the ozone NAAQS has been made by the commentor. The commentor's conclusion is based on a qualitative guess using improperly adjusted (as noted below) ambient air quality data trends. Thus, no supportable attainment demonstration has been provided.

Second, the analysis appears to assume that reduction in VOC emissions will provide an equivalent reduction in ambient ozone concentrations. This assumption is inconsistent with the nonlinearity of the photochemical system.

Third, no justification has been provided for the projected reduction in future VOC emission levels. It is not clear how these reductions were determined.

Finally, the analysis dismisses the high ozone concentrations which occurred during the summer of 1988 because of "abnormal" meteorology. USEPA has previously considered and rejected the argument that the above normal temperature conditions which occurred during recent summers, such as 1983 and 1988, qualify as exceptional events. Year-to-year variability in meteorological conditions should be expected, and there is no guarantee that such conditions will not happen again. The occurrence of comparable, above normal temperature conditions during two other recent summers, 1983 and 1987, further invalidates any claim that 1988 was "abnormal". Thus, it is inappropriate to dismiss 1988 ambient data on the basis of meteorological conditions.

Comment: Two commentors felt it was "incomprehensible" that the proposal did not contain a provision requiring Stage II vapor recovery equipment at gasoline stations. Emissions from motor vehicle refueling are one of the largest, if not the largest,

⁸ On November 2, 1989, (54 FR 46271), USEPA proposed to limit highway funding in Cook, DuPage, Kane, and Lake Counties based on the State's failure to make reasonable efforts to submit a revised plan with enhanced motor vehicle inspection and maintenance program.

uncontrolled sources of ozone precursors in northeastern Illinois. The Agency's failure to deal with such an important aspect of the problem makes its proposal unsustainable. The commenters maintained that the CAA requires the Agency to implement Stage II vapor recovery because it is a reasonable available control measure. USEPA's failure to require its implementation is a violation of the CAA.

Response: As noted above, USEPA believes that numerous area, mobile, and point source controls will be needed to provide for attainment here. This rulemaking does not, however, represent the complete attainment plan for the Chicago areas. USEPA, at this time, is only promulgating Federal rules to correct specific deficiencies with certain Illinois stationary source rules. Because USEPA has not notified the State either pursuant to the settlement agreement or a Notice of SIP Deficiency that its plan is deficient with respect to Stage II vapor controls and because the interim emission reductions required by the settlement agreement do not include Stage II controls, adopting such a rule change in this final rulemaking without prior notice raises difficult legal and procedural concerns. USEPA does, however, recognize the viability of Stage II controls and will consider it for inclusion in the full attainment plan (required by the settlement agreement to be promulgated by 1993 and 1994). The CAA does not prohibit USEPA from adopting certain RACT rules in advance of other control measures.

Comment: One commenter felt that USEPA should delay final action on this proposal until Congress provides definitive guidance in the pending Amendments to the CAA. Another commenter noted that USEPA may not disregard the requirements of an existing statute on the chance that Congress may later amend it.

Response: USEPA is not able to wait for this anticipated action on the part of Congress because it is under a court order to act at this time. The settlement agreement is based on the current CAA and USEPA must act in accord with existing law.

Comment: One commenter noted that some of the rules proposed are in direct conflict with existing federally-approved State rules and USEPA failed to provide a satisfactory method of dealing with the conflict. USEPA would require that if the existing federally-approved regulations and the new regulations conflict in such a way that a source would violate the existing rule while moving toward compliance with the new rules, then the source must apply for a

site-specific variance from the existing State rule. In view of USEPA's past failure to act promptly on SIP revisions, this would put companies in jeopardy of enforcement.

Response: The existing federally approved SIP rules for any source continue to apply and to be fully enforceable, until the date on which the source is required to comply with a revised rule. The existing SIP will continue in force if there is any delay or lapse in the applicability of the revised rule. To allow a gap in compliance for CTG and major non-CTG sources when the statutory attainment date has past and the area is still nonattainment is environmentally unacceptable. If the existing and revised rules conflict so that a source cannot comply with the existing SIP while moving toward compliance with the revised rule, however, then the source may apply for a site-specific exemption from the existing SIP from the State. All such exemptions granted by the State must, in turn, be submitted to and approved by USEPA before such exemption from the SIP is effective.

No commenters identified any cases where the proposed Federal rules would create any such obvious conflicts. Thus, while USEPA appreciates the commenter's concern about political conflicts, USEPA believes based on the lack of any specific examples that the practical effect of requiring site-specific SIP revisions for this reason may not be significant. Because obtaining a site-specific plan revision the State and subsequent approval from USEPA can take a while, USEPA encourages any such affected plant to initiate the process with the State as soon as possible. It is unlikely that either the State or USEPA would initiate enforcement action against a company based on a conflict between State and Federal rules while such a variance proceeding is pending.

Comment: One commenter questioned how USEPA would handle enforcement of the Federal RACT rules.

Response: USEPA would have primary responsibility to enforce the rules. In the interest of having the State assume control of the plan, the Agency hopes the State will develop adequate legal authority to supplement USEPA's enforcement responsibility with its own in the interim period until the State can submit a complete set of approvable RACT rules.

4. Potential to Emit and Operating Permits

Comment: Several commenters objected to the use of potential emission rates in determining the applicability of

certain regulations. One commenter believed that the use of a potential emissions applicability requirement for printing facilities could greatly overstate actual emission due to the nonuniform nature of typical printing operations. One commenter contended that requiring emission levels to be determined prior to add-on controls was contrary to past rulings in the courts (i.e., a facility's potential to emit must take into consideration not only the effect of pollution control equipment on the emission levels but also any federally enforceable permit conditions which restrict hours of operation or amounts of materials combusted or produced). (see *Alabama Power Co. v. Costle*, 636 F.2d 323 (D.C. Cir. 1980) and *U.S. v. Louisiana Pacific Corp.*, 682 F. Supp. 1122 (D.Colo. 1987) and 682 F. Supp. 1141 (D.Colo. 1988).) The commenter added that requiring potential to emit to be used fails to consider that many sources do not operate 24 hours/day or 365 days/year and never will do so.

Response: USEPA has historically used a source's "potential to emit" as a benchmark for deciding whether it is appropriate to require RACT for the source under the RACT requirement of section 172(b)(3) of the CAA. According to USEPA's past interpretation of "potential to emit" (44 FR 20376), this term means the maximum capacity of a source to emit a pollutant absent control equipment. In reviewing the comments received on this issue, USEPA acknowledges that some confusion could result from the use of the same term with a different meaning in the context of the new source review (NSR) provisions of the CAA. Consequently, USEPA has decided to use a different term for purposes of these RACT rules. USEPA will use the term "maximum theoretical emissions" to describe those sources subject to these RACT requirements. This term will have the same meaning as USEPA historically gave to the term "potential to emit" in the RACT context. Maximum theoretical emissions will be used only to determine applicability for purposes of RACT rules. As discussed in the Blue Book, the RACT exemption levels for printing operations and major non-CTG sources shall be based on the maximum theoretical tons per year emissions calculated assuming design capacity (or maximum production), 8760 hours of operation per year (or maximum capacity), and no add-on controls (or absent control equipment).⁷ Because

⁷ For printing and major non-CTG sources, USEPA's RACT guidance (as discussed in the Blue Book).

control efficiency is somewhat variable and possibly uncertain, USEPA believes that subject and exempt facilities can be better identified if add-on controls are not accounted for in the calculation of maximum theoretical emissions. Furthermore, although USEPA realizes that most sources will not in fact operate continually year round, USEPA believes that because maximum theoretical emissions represent what a source is capable of emitting, it provides a more stable characterization of the source than actual emissions, which may also be quite variable and are often extremely difficult to ascertain. Thus, a source's maximum theoretical emissions is a measure for determining whether a source is of sufficient size, and, therefore, has the ability to apply controls at a reasonable cost.

USEPA recognizes that this definition of the term "maximum theoretical emissions" is defined differently from the term "potential to emit" in the NSR program, which was the subject of the court rulings referred to by the commentator. USEPA acknowledges that for purposes of the NSR program, USEPA must consider federally enforceable physical or operational limitations on the capacity of a source, including air pollution control equipment, and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed (see, for example, 40 CFR 51.15(a)(3)). USEPA believes, however, that it is not improper to use a similar term here with a different definition, provided that its use is clearly defined. While the D.C. Circuit Court of Appeals found that the CAA mandates the consideration of pollution controls in determining the potential to emit for the NSR program, the Court explicitly relied on Congress' desire to limit the NSR program to "major" sources of air pollution and its finding that Congress specifically intended USEPA to take into account the anticipated functioning of air pollution control equipment in determining which sources are "major" (see *Alabama Power Co. v. Costle*, 636 F.2d at 352-355).⁸ There is a different

statutory directive for the purposes of establishing emission limitations and standards pursuant to section 110 and RACT requirements of section 172(b)(3). Unlike section 169(1) of the CAA, the definition of RACT in section 172(b)(3) contains no express considerations regarding applicability. Thus, the court cases cited by the commentators are not relevant here. USEPA concludes that it is reasonable to require RACT for all sizeable VOC sources based on maximum theoretical emissions, as described above.

Finally, it should be noted that sources subject to these regulations, based on the use of maximum theoretical emissions as the applicability criteria, may apply for an alternative RACT determination if they believe that the emission limitations and standards of the Federal regulations are not technologically or economically reasonable.

Comment: Two commentators believed that the exemption provisions for several categories, in which the 100 TPY emission rate as limited by a federally enforceable construction permit can be used to determine applicability, should be expanded to include construction and operating permits. This would be consistent with Illinois' system and would prevent a totally new permit system from having to be developed. They believed that there was no reason to differentiate between operating permits and construction permits when determining limitations on the potential to emit. One commentator felt that the provision for exemption based on a federally enforceable construction permit or FIP or SIP revision limiting emissions was unclear and too complex. Another commentator maintained that the use of SIP or FIP revisions to limit potential emissions is administratively impractical and that operating permits should also be an acceptable means of limiting the potential to emit. The commentator suggested that USEPA establish legal and administrative standards needed to make operating permits federally enforceable.

Response: USEPA believes that IEPA's operating permit program is neither federally enforceable, nor consistent with USEPA requirements set forth in a June 28, 1989, Federal Register policy statement (54 FR 27274) concerning federal enforceability of State operating permits. According to this policy statement, State operating permits will be considered federally enforceable if issued pursuant to permitting programs that meet five specified criteria. Furthermore, the operating permit program must first be

approved by USEPA as meeting these criteria before USEPA will consider such permits to be federally enforceable. Although USEPA approved the State's operating permit program on May 31, 1972 (37 FR 10862) and again in modified form on February 21, 1980 (45 FR 11477), it has yet to approve it as meeting the criteria of its June 28, 1989, policy statement. A brief assessment of the State's program, however, indicates that it does not satisfy all of these criteria (e.g., there is no provision requiring compliance with the conditions in the State operating permit). Consequently, USEPA does not recognize State operating permits in Illinois as being federally enforceable.

IEPA appears to concede that Illinois operating permits are not federally enforceable by acknowledging two procedural flaws in its current operating permit program: (a) Lack of public comments on draft permits, and (b) failure to label the permit as being federally enforceable. IEPA's suggestion that USEPA correct deficiencies in its operating permit program in this rulemaking is inappropriate because USEPA has not identified the State's operating system as being deficient (e.g., this was not included in either the May 26, 1983, SIP Call, the settlement agreement, or the December 27, 1989, NPR). Thus, promulgating a Federal operating permit program in this final rulemaking without prior proposal raises difficult legal and procedural concerns. The proper method for revising the IEPA permit system is through a separate rulemaking action, which the State may elect to do. If so, then the revised program must be consistent with USEPA's June 28, 1989, policy statement.

Finally, because Illinois's operating permits are not federally enforceable, conditions and limitations in those permits cannot be accepted in lieu of federally enforceable conditions and limitations in the RACT rules now being promulgated.

Comment: One commentator believed that an IEPA operating permit is federally enforceable and that this is the preferred method of site-specific determinations and that USEPA must confront the question of whether operating permits are federally enforceable. Two commentators questioned the role of State permits in USEPA's enforcement of the FIP. Another commentator stated that there is no basis for precluding the emission limitations in operating permits. In *People of State of Illinois v. Commonwealth Edison Company*, 490 F. Supp. 1145 (1980), the court held that the requirement that an operating permit be

⁸ Book) allows federally enforceable operating restrictions (except air pollution control equipment) to be taken into account when determining applicability. Sources may voluntarily apply for such restrictions.

⁹ The Court of Appeals for the Seventh Circuit recently decided a case involving the term "potential to emit" in the context of the NSR provisions of the CAA (*Wisconsin Electric Power Company v. Reilly*, Nos. 88-3264, 89-1339, 7th Cir., slip opinion, January 19, 1990). For the reasons described in the text above, this case has no applicability to the RACT rules USEPA is promulgating today.

obtained constituted an emission limitation under the CAA, and therefore is federally enforceable. In *Citizens for a Better Environment v. EPA* (649 F.2d 522 (7th Cir. 1981)), the court held that State operating permits were federally enforceable to the extent their requirements were intended to require compliance with the SIP. Another commentator believed that operating permits are federally enforceable because the operating permit requirements have been part of the Illinois SIP since 1971. Consequently, failure to have a permit is a violation of Federal law.

Response: At issue here is how a particular permit is to be used. The exemptions allowed in the RACT rules being promulgated today are being allowed only for those sources whose permit conditions are federally enforceable and, thus, are viewed by USEPA as being equivalent to the conditions of the rule which would otherwise be applicable. Illinois SIP Rule 103(b), which was approved by USEPA as part of the SIP on May 31, 1972 (37 FR 10862) and again in modified form on February 21, 1980 (45 FR 11477), governs operating permits. This rule makes it a condition of operation that a source so governed obtain a permit, but contains no provision requiring compliance with the conditions in the permit. Because there is no requirement in SIP Rule 103(b) that a source with an operating permit shall not operate unless it is in compliance with all conditions of the operating permit, the conditions of the operating permit cannot be accepted as equivalent to the conditions of the promulgated RACT rule. In the case of *Illinois v. Comm. Ed.*, 490 F. Supp. 1145 (1980), Commonwealth Edison was operating without the operating permit required by SIP Rule 103(b). An enforcement action was brought, and Commonwealth Edison defended on grounds that the requirement that it obtain an operating permit was not "an emission standard or limitation" under the CAA and, therefore, was not enforceable under the CAA. The Court found that the requirement was "an emission standard or limitation" and was enforceable under the CAA. The Court merely stated that if a source did not obtain an operating permit, a Federal action could be brought to have it ordered to do so; nothing was stated about the enforceability of the conditions of the operating permit. In *CBE v. USEPA*, 649 F.2d 522 (1981), Illinois had submitted, and USEPA had approved, Rule 203(f) as a part of the SIP. CBE challenged USEPA's approval of the rule as being

arbitrary and capricious. The rule required owners or operators of potential sources of fugitive particulate matter to submit to the State "operating programs" to "significantly reduce" fugitive particulate emissions, and required that the source "shall be operated" under the provisions of the operating program. CBE argued that because "significant reduction" was not defined, the standard could not be enforced. The Court found that argument "premature", and concluded that a source which "does not comply with the operating program required" was subject to an enforcement action of USEPA, the State, or any citizen. The Illinois operating permit rule, however, unlike Rule 203(f) has no "shall be operated" language, and places no conditions on the operation of the source; it only requires a source to have a permit. *CBE v. USEPA* is, therefore, inapplicable to the enforceability of the Illinois operating permit rule (Rule 103(b)). As noted above, operating permits are only federally enforceable if issued under a federally approved permitting system, and USEPA has never approved Illinois' program on that basis.

C. Federal Rules

1. General Provisions

a. Geographic applicability—

Comment: Several commentators questioned the rationale for including McHenry and Will counties in the regulated area, while another commentator objected only to the inclusion of Will County. Another commentator supported the six-county applicability for the RACT rules on the basis that it was consistent with the existing State VOC control in the Chicago area.

In particular, one of the commentators maintained that USEPA's argument regarding emissions is improper in light of emission inventory errors and USEPA's reliance on past modeling is ill-founded. The commentator further noted that it was improper and a violation of the *Bethlehem* decision to reject every other part of the State's regulations, but them to select one part for preservation in a different context. Another commentator claimed that the inclusion of McHenry and Will Counties is inconsistent with USEPA's November 2, 1989, proposed Federal highway funding sanctions (and proposed enhancement to I/M program) for northeast Illinois, which did not apply to those counties, and with the understanding in the settlement agreement that new modeling is needed.

Response: USEPA stands by the rationale cited in the NPR for applying the Federal rules to the attainment counties of McHenry and Will, as well as the nonattainment counties of Cook, DuPage, Kane, and Lake. In brief, USEPA believes that requiring RACT for certain VOC sources in McHenry and Will Counties is important for several reasons. First, Illinois has recognized the contribution of these counties to the ozone nonattainment problem in the Chicago area by including emission sources located in them in the area for which the State constructed its Chicago attainment demonstration in both its 1979 and 1982 part D ozone SIPs. Second, as USEPA has stated on previous occasions subsequent to its redesignation of McHenry and Will Counties as attainment for ozone, that redesignation was based on several incorrect assumptions. Third, USEPA believes that stationary sources of VOC located in McHenry and Will Counties make a significant contribution to the ozone nonattainment problem in the greater Chicago area, and that the ozone NAAQS cannot reasonably be attained unless RACT rules are applied in these two counties. Thus, USEPA is requiring these rules in McHenry and Will Counties in order to meet the attainment related requirements of the CAA for the designated Chicago nonattainment area. Finally, the State has also, in its public comments, endorsed the inclusion of McHenry and Will Counties in the area to be regulated.⁹

USEPA's decision to apply the RACT rules now in McHenry and Will Counties, but not in Grady and Kendall Counties (which are also in the Chicago CMSA), does not mean that the application of RACT in the latter two counties might not be appropriate in the future. Rather, the Agency believes that in the first phase of correcting existing ozone SIPs in the absence of a modeled attainment demonstration, only those counties in the historical Chicago demonstration area, and that were subject to the 1988 SIP call by USEPA to correct deficiencies in VOC RACT rules, should be subject to the RACT corrections.

The commentator's objection based on perceived errors in the emissions inventory for these two counties and

⁹ USEPA's action to subject all six counties to the same level of control [RACT] through this rulemaking will not necessarily require the State to control emissions beyond RACT in these counties equally as part of its future, revised "attainment" SIP. The State may control these emissions to the extent necessary beyond RACT, provided the revised plan produces progress and attainment in accordance with the requirements of the CAA.

USEPA's reliance on past modeling results is not persuasive. With respect to the emissions inventory, a comparison of the current State data base (which the commentor endorsed) and the FIP inventory indicates very good agreement, when certain factors such as biogenic emissions and rule effectiveness for point sources are accounted for. With respect to prior modeling results, it should be noted that USEPA's determination that these counties were upwind on days when the NAAQS was exceeded was based primarily on a qualitative assessment of actual ambient data, not on any mathematical modeling analyses. As noted in the TSD, existing modeling results do not permit a quantitative assessment of the contribution from McHenry and Will Counties and, consequently, a qualitative assessment was necessary. USEPA recognizes that pursuant to the settlement agreement, a state-of-the-art modeling analysis will be conducted.

Comment: One commentor stated that USEPA has no authority to change Will County from attainment to nonattainment for ozone. Another commentor recommended that if McHenry and Will were mistakenly redesignated to attainment, the USEPA should correct the designation.

Response: USEPA is not redesignating Will County, which is currently classified as an attainment county.¹⁰ In fact, the United States Court of Appeals for the Seventh Circuit has previously found that USEPA cannot unilaterally redesignate an area. Furthermore, USEPA is not requiring that these counties develop the full panoply of rules as required by part D. For instance, these counties are not required to ban the construction of all major sources or major modifications of ozone precursors or to implement a motor vehicle I/M program. Rather, USEPA is requiring that McHenry and Will Counties implement RACT, which is admittedly one component of the part D planning obligations, although USEPA is not requiring it in those counties under part D. USEPA has determined that the implementation of RACT in McHenry and Will Counties is necessary under section 110 to provide for attainment and maintenance of the ozone NAAQS in the Chicago area. Furthermore, pursuant to section 110, USEPA has found the existing Illinois

implementation plan to be deficient. Consequently, USEPA is adopting RACT rules pursuant to section 110, which applies to attainment and nonattainment areas, not part D.

Comment: One commentor questioned USEPA's authority to promulgate RACT rules in attainment counties.

Response: Judge Evans, in his order of January 18, 1989, found that the USEPA Administrator, on disapproving a State plan, has a nondiscretionary duty to formulate a Federal plan for ozone control, under section 110 of the CAA. (42 U.S.C. 7410(c)(1)(B)). Section 110 is the basis of the legal authority for Judge Evans' orders, and USEPA's CAA obligation. The FIP is to provide for attainment of the ozone NAAQS in the Northeast Illinois nonattainment area.

USEPA's interpretation of the CAA is that the Act does not restrict the application of controls to those counties designated as nonattainment. To the extent necessary to "insure attainment in any area" (section 110(a)(2)(B)) and to "provide for attainment in a nonattainment area" (section 172(a)) controls are incorporated in areas with sources of contributing emissions irrespective of their status under section 107 of the CAA. In these circumstances, for purposes of determining which sources in which areas must reduce their emissions in order to provide for attainment in the Chicago area, USEPA is relying substantially upon prior actions by the State of Illinois which indicate that Will and McHenry counties are properly part of the control strategy demonstration area. These actions include previous SIP submittals by the State which are convincing to USEPA that emissions in these two counties must be controlled to enable attainment of the ambient air quality standards in Chicago. In addition and as a result, USEPA identified these two counties when the notice of SIP deficiency was issued with respect to the Chicago area on May 26, 1988. During the intervening time between this action and the redesignation of these two counties, Illinois has not taken any action or presented any information to indicate that these counties should not be considered as part of the demonstration area.

With respect to the application of RACT in these counties, under these limited circumstances, USEPA believes that the Federal imposition of RACT under the authority of sections 110(a)(2)(B) and 172(a)¹¹ is the

appropriate alternative for achieving emission reductions in these two counties in the interim period before the State and USEPA produce a reliable modeling demonstration of attainment for the Chicago area. These reductions will ensure progress toward attainment of the ozone NAAQS in the Chicago area. The State may, when submitting an approvable SIP, determine that more or less stringent controls are appropriate in these counties in accordance with USEPA guidance.

b. Definitions—Comment: One commentor felt that the proposed definition of coating, which includes adhesives, should be revised so that operations specifically regulated under the State generic rule for miscellaneous fabricated product manufacturing are excluded. The commentor noted that adhesive use was regulated by the State under its generic rule. Another commentor said that the coating definition does not make clear the meaning of "functional" coatings, and it is unclear what new types of operations USEPA intends to regulate with this change in the definition. Specifically, the commentor wondered whether adhesives applied to a plastic frame so that fabric can be applied to the frame and paint applied to plastic articles, such as automobile components, would be regulated. If so, the USEPA should repropose and provide an understandable statement of basis and purpose with respect to such applications.

Response: The definition of coating proposed in the Federal rule is "a material applied onto or impregnated into a substrate for protective, decorative, or functional purposes. Such materials include, but are not limited to, paints, varnishes, sealers, adhesives, thinners, diluents, and inks." This definition is compatible with national USEPA guidance, and a similar definition is being applied in all States as ozone SIPs are updated. The terms "protective" and "decorative" are by themselves too limiting in the context of the example coatings listed in the definition. For example, adhesives and inks normally are not applied in order to protect or decorate. Therefore, the broad term "functional" is included to encompass the other potential purposes for which a coating may be applied. The dictionary definition of functional is

the part D requirements do not apply to these two counties, the SIP must retain all existing requirements (RACT and otherwise) and be supplemented by any additional requirements as necessary to provide for attainment and maintenance both in those counties and in nearby designated nonattainment areas.

¹⁰ On June 8, 1988 (53 FR 20729), pursuant to the Mitchell-Conte Amendment of December 22, 1987, (contained in the Budget Reconciliation Act of 1987, Pub. L. 100-202), USEPA proposed to redesignate certain counties as nonattainment for ozone, including McHenry and Will Counties.

¹¹ USEPA is not relying on the RACT requirements of part D, title I of the CAA (section 172(b)(3)) for purposes of applying these rules to sources in McHenry and Will Counties. Although

adequately clear and, as a result, USEPA does not consider the term "functional coating" to be ambiguous. All operations that apply coatings as described by this definition, and that satisfy the other applicability criteria, will be subject to regulation under this implementation plan.

Major non-CTG rules such as the "Generic Rule" are only intended to cover sources not included within a CTG category. The first consideration is whether a coating belongs within a CTG category. If an adhesive as used in a given application does not belong within a CTG category, it should then be considered for regulation as a non-CTG source. However, the status of such coatings when used in applications covered by a CTG is not affected by inclusion of the coating in a non-CTG generic rule.

With regard to the application of adhesives to a plastic frame so that a fabric can be applied to the frame, USEPA believes that such operations appear to be covered by the fabric coating limitations. The commenter failed to provide any source-specific information which would be needed to consider this matter further. For the application of paint to plastic articles, USEPA believes that such operations are not covered by the coating rule, but rather by the generic rule.

Comment: One commentator objected to the proposed modification to the definition of paper coating because there is no technical basis for including saturation operations in the definition and thereby subjecting saturation operations to the paper coating regulations. Both the Blue Book and the NPR only give conclusory statements that paper coating should cover saturation operations. However, they do not provide any justification or give any technical basis for this modification. A commentator added that the TSD fails to mention that saturation operations need to be regulated and that there would be no benefit in emission reduction from regulating saturation operations.

Response: The basis for the clarification in the paper coating definition was, as noted by the commentator, made in response to national USEPA guidance as provided in the Blue Book. The commentator has provided no basis to cause USEPA to change the proposed definition. The technical basis for regulating saturation operations as papercoaters is discussed at length in section E.5 below.

Comment: IEPA suggested several refinements to the proposed Federal definitions to clarify them and make them consistent with the RACT rules before the IPCB. Another commentator

supported IEPA's suggested revisions with respect to the definitions used in the pharmaceutical manufacturing rule.

Response: Based on these comments and upon further consideration, USEPA has decided to modify the following definitions: actual emissions, afterburners, air dried coatings, allowable emissions, as applied, automobile or light-duty truck assembly (manufacturing) plant, binders, bulk gasoline plant, can, coating applicator, coating line, coating plant, condensate, control device, emission source, enclosure, exterior base coating (coat), exterior end coating (coat), federally enforceable, final repair coat, fixed roof tank, gasoline, heavy liquid, interior body spray coating (coat), magnet wire coating, maximum theoretical emissions (potential emissions/potential to emit), metal furniture coating, overvarnish, petroleum refinery, plant, prime coat, printing line, publication rotogravure printing line, roll coater, roll printer, sealer, source, specified air contaminant, submerged loading pipe (submerged fill pipe), topcoat, vapor recovery system, vinyl coating, volatile organic material, and volatile organic compound. The following definitions have been added: Accelacota, air suspension coater/dryer, airless spray, air-assisted airless spray, brush or wipe coating, capture, capture device, capture efficiency, control device efficiency, electrostatic bell or disc spray, electrostatic spray, gas/gas method, heated airless spray, hood, hood capture efficiency, liquid/gas method, lithographic printing line, magnet wire, multiple package coatings, organic compound, overall control, pharmaceutical coating operation, printing, refrigerated condenser, roller coating, and tablet coating operation. These definitions, added at the request of the commentators, serve only to clarify (and not to modify the intent of) the proposed rules. As such, USEPA believes that including these new definitions in the promulgated rule is appropriate (i.e., reproposal is unnecessary). In addition, the following definitions are not used, or are redundant, in the Federal rules and, thus, have been deleted: actual heat input, agency, ambient air, British thermal unit, building, structure, facility, or installation, emission rate, emissions unit, can-seam spray, complete combustion, electrostatic application, electrostatic coating, excess air, flow coating, furniture coating application line, graphic arts coating facility, graphic arts coating line, gross heating value, heavy off-highway vehicle, interior base coating, liquid-mounted primary seal, petroleum liquid, photochemically

reactive material, pressure tanks, reasonably available control technology, refinery, vapor-mounted primary seal, varnishes, and volatile petroleum liquid. The resulting definitions are now more consistent with those in the existing State rules. USEPA hopes that these changes will enhance Illinois's ability to adopt (in total) the Federal rules as soon as possible. It should be noted that the applicable definitions in the implementation plan will consist of the federally approved definition portions of the State rule (201.102, 211.122, and 215.104) and the definitions in the Federal General Provisions rule. The Federal definitions will supersede, for the purposes of the Federal rules, the definitions for the corresponding terms included in 201.102, 211.122, or 215.104 and will be the federally enforceable definition for these terms.

c. Test methods and procedures—
Comment: Several commentators objected to the inclusion of the draft document on capture efficiency protocol in the proposed test methods, since it had not been finalized or subject to public review. One of them believed that the temporary total enclosure test method described in the draft guideline document for measuring capture efficiency is not economically feasible for the flexible packaging converting industry, and that no data have been provided to show that the temporary total enclosure test method is more effective or reproducible than methods already in use to demonstrate capture efficiency. Another commentator felt it is clear that USEPA failed to review any technical support for the protocol before including it in the proposal. Still another commentator stated that the use of draft guidance documents for determining compliance with a regulation should not be allowed because the test procedures establish the regulatory limits. Without knowing the content of the finalized version of the guidance document one cannot adequately evaluate the compliance status of the facility or know the precise requirements of the regulation.

Response: USEPA's standard procedure is to propose test methods with regulations, as done in connection with the New Source Performance Standards (NSPS). The proposal of these capture efficiency protocols with the Chicago area Federal RACT rules provided an adequate opportunity for public comment on the protocols. As noted, many commentators objected to the inclusion of the draft protocols, but very few provided specific technical comments on them. The final capture efficiency protocols were issued on

April 16, 1990 (see "Guidelines for Developing Capture Efficiency Protocols"). Because USEPA received no comments justifying a change from using the draft protocols, and because the draft and final protocols contain few differences (as discussed below), the final document has been used as the basis for the promulgated RACT rules, as indicated in the proposed rules.

The commentor that mentioned the temporary total enclosure test method and its feasibility for the flexible packaging converting industry should note that this is not the only recommended method in the final protocols. Capture efficiency may be measured using the building or room in which the affected source is located as the enclosure.

The technical support for the protocols was carefully reviewed before the protocols were included in the Federal rules. A comparison of the draft protocols and the final protocols shows that there are few differences. The final protocols recommend four procedures: gas/gas using temporary total enclosure, liquid/gas using temporary total enclosure, gas/gas using the building or room as the enclosure, and liquid/gas using the building or room as the enclosure.¹² If the building or room meets the requirements specified for a permanent total enclosure, then it is exempt from capture efficiency testing requirements. A few of the procedures in the draft protocols are not recommended in the final protocols: gas/gas with and without temporary total enclosure (draft protocol 1b), gas/gas with building as enclosure operating with and without affected facility operating (draft protocol 1c, option B), liquid/gas mass balance (draft protocol 2), and liquid/gas with building as enclosure operating with and without affected facility operating (draft protocol 3b, option B).¹³ Draft protocols 1c, 2, and 3b were not recommended because they are highly sensitive to measurement errors and have high error propagation. These methods should only be used after careful consideration of the error in the measurements and the

resultant uncertainty in capture efficiency. These draft protocols are not included in the final FIP rule and, as such, can only be used if approved as a site-specific SIP or FIP revision. The final document and FIP rule also contain Procedure T, which includes criteria and verification of a permanent or temporary total enclosure. These criteria are the same as those in the draft document, but for clarity have been included as Procedure T.

In light of the few differences between the draft and the final protocols, USEPA believes that the public had an adequate opportunity to comment on the use of the protocols in this FIP. The draft stated that " * * * the guideline and procedures will be updated based on any comments and as more details and information are gathered." USEPA did not receive any specific comments indicating that any given procedures should be retained in the final protocol. The final protocol still includes several test method procedures which USEPA believes are comparable in cost to the procedures deleted from the final protocol. Thus, USEPA concludes that the final protocol provides sources with reasonable flexibility in selecting procedures to demonstrate compliance.

Comment: One commentor noted specific problems which have arisen with the temporary enclosure method contained in the draft guideline capture efficiency document.

(1) Room air currents which are normally experienced may be shielded from the process by the temporary enclosure, giving false capture results.

(2) While the guidance specifies the flow rate design of natural draft openings, the specifications may not entirely preclude flow channeling within the enclosure, which in turn could cause toxic or explosive concentrations of the VOC species to be experienced. This concern may pose liability considerations for the company and regulating agency.

(3) Total enclosures may be difficult, if not impossible, to construct given the area and operating constraints of some coating lines.

(4) It is difficult to maintain the integrity of the capture enclosure throughout the test if material transport and operating personnel access is constantly required.

(5) If a final and acceptable vapor-capture testing method can be developed, it will take years before local regulatory agencies and professional testing firms develop expertise in all aspects of temporary enclosure construction, safety considerations, and potential flaws in the methodology.

It appears unreasonable that the current regulatory proposal should consider this the sole method of available VOC emissions capture testing.

Response: USEPA is aware of, and considered, these specific concerns before finalizing the protocols. USEPA offers the following responses to each concern.

(1) Although shielding of room air currents is a potential problem, USEPA believes that this may actually boost the capture efficiency measured. The protocol attempts to compensate for this by obtaining a concentration from the ducts going to the control device before constructing the temporary total enclosure, then monitoring the concentration in the ducts after construction. If the concentration is different, then the air flow should be adjusted to maintain the initial concentration. If this can be accomplished, then it would eliminate the bias associated with the situation described by the commentor.

(2) There is a requirement to monitor the concentration of organics within the enclosure to ensure that it does not exceed the Occupational Safety and Health Administration limits. This would occur well before an explosive limit would be reached.

(3) USEPA acknowledges that it may be difficult for all facilities to construct total enclosures, although USEPA did study a number of facilities and did not find an instance where this was the case. The final rule, however, allows for case-by-case relief in such situations through a SIP or FIP revision.

(4) USEPA believes that access should be a consideration in the design of the enclosure to minimize any problems.

(5) USEPA disagrees with the comment concerning gas/gas methods. All the measurements required by the gas/gas method are standard, routine procedures with which testing firms and regulatory agencies are familiar. Furthermore, the amount of time to develop expertise in the construction of temporary total enclosures is exaggerated by the commentor.

Comment: One commentor agreed that Methods 24 and 24A and the other referenced test methods for determining the VOC content of coatings, inks, and fountain solutions are appropriate for determining the VOC content of these materials, but felt that these methods are not suitable for determining the quantity of VOC emitted from a process. In many printing processes, there is significant solvent retention in the product, causing actual emissions to be

¹² If a source uses a control device that recovers VOC, an explicit measurement of capture efficiency may not be necessary. The liquid/liquid recovery method may be used.

¹³ In addition, the gas/gas and liquid/gas protocols which allocated measured fugitive emissions by the capacity of operating facilities (draft protocols 1c, option C and 3b, option C) have been deleted from the final protocol document. These protocols were deleted because they involved crossline averaging and, thus, necessitated compliance with the Emissions Trading Policy Statement. This presented many administrative and enforceability problems which are unnecessary and burdensome for the facility and USEPA.

much less than the amount determined from these test methods.

Response: USEPA believes that the solvent retained in a printed product generally is eventually released and becomes air emissions, and that owners and operators should be held responsible for such retained solvents. Exceptions can be made in the form of a site-specific SIP or FIP revision only if the owner/operator can provide sufficient evidence that the solvent becomes chemically or otherwise permanently bonded to the coating as it cures and that no VOC will be emitted from the product after it leaves the plant.

Comment: One commentator felt that the proposed continuous emission monitoring (CEM) requirements for catalytic afterburners and carbon adsorbers are inappropriate. In catalytic control systems, temperature rise across the catalytic bed varies with VOC input, and so is not a meaningful indicator of performance. Carbon adsorbers consist of multiple units which cycle and undergo variable emission rates at various points in the cycle. Further, the requirement that CEMs operate at all times is unreasonable because it is difficult to keep these systems on-line, and it does not make sense to shut down a process due to a monitor malfunction. Finally, the application of monitoring requirements to the printing industry, especially small printers, is unnecessary, infeasible, and extremely expensive.

Response: USEPA believes that the monitoring requirements are feasible and necessary to ensure that controls maintain their intended level of operation. USEPA intends for monitoring equipment to be used whenever the monitored process is in operation. Any deviations are more appropriately considered in the enforcement process, where discretion can be exercised as considered appropriate.

A requirement must be in place to assure that catalytic beds continue to maintain adequate control efficiency. An alternative to monitoring temperature rise across the bed would be to monitor the VOM concentration of each catalytic afterburner bed exhaust. The proposed requirements in § 52.741(a)(4)(iv)(B) have been revised in the final rules to reflect this alternative.

The portion of a carbon adsorber cycle just prior to desorption is a time of increased emissions. As the adsorber approaches saturation, the exhaust VOC concentration will increase as the available retention sites are reduced. However, the maximum exhaust concentration from a well-operated

system should not exceed some low level of about 20 to 100 ppm. USEPA maintains that VOC concentration is a useful indicator of the regeneration cycle. The continuous monitor will be used to indicate whether adsorbers are being properly operated and maintained.

Finally, USEPA disagrees that the proposed monitoring requirements for the printing industry will pose the problems raised by the commentator. The printing industry has a higher applicability cut-off level than other coating sources (i.e., 100 ton per year maximum theoretical versus 15 pounds per day actual). Thus, "small" printers will be exempt from the Federal rules. The subject printing plants are considered to be a sizeable source and should have continuous monitors to ensure that their control equipment is operating properly. These larger sources should be able to absorb the costs of such monitoring.

Comment: One commentator had several comments on the proposed compliance testing requirements as they relate to printing operations. The commentator stated that there is no need to perform efficiency testing of individual units if the overall efficiency of the system, as determined by the liquid/liquid test protocol (i.e., the NSPS 30-day overall materials mass balance), has been found to meet the overall control requirements. For publication rotogravure printing, the commentator asserted that 30-day overall materials mass balance technique would be the most representative approach. Any short-term non-continuous test method is inappropriate for the determination of the performance of a complex, variable flow emissions control system. Since the detection limit for Method 25 is 50 ppm, the required efficiency for systems measured by this method should be 90 percent or 50 ppm, whichever is greater. Finally, USEPA should consider the use of screening tests to identify situations where more in-depth testing is warranted, because formal compliance testing is very expensive, and could be burdensome for smaller businesses.

Response: USEPA requires that compliance determinations be based upon daily or shorter time frames. Therefore, the liquid/liquid protocol may only be used, for purposes of demonstrating compliance with these Federal rules, if it is performed in accordance with the general procedures in 40 CFR 60.433, as revised by the restrictions in § 52.741(a)(iii). USEPA's test methods (e.g., Reference Methods 18 and 25) are appropriate for short-term variable flow emission control systems.

USEPA will not be including a 50 ppm control device efficiency limit in the

final Federal rules because: (1) The Agency's long-standing RACT guidance is 90 percent control device efficiency, (2) no specific cases where 90 percent efficiency cannot be determined have been presented, and (3) use of a ppm standard could encourage dilution without control. The testing specified in the final rules is the only way compliance can be assured.

Finally, USEPA wishes to emphasize that the testing specified in the regulations, and not a screening test, is the only way a source's compliance can be assured.

Comment: The same commentator questioned the need for extensive daily records of the VOM content of materials for operations using add-on controls such as carbon adsorption equipment. The commentator believed that it should be sufficient to maintain the records that are required to calculate VOM input into the process and the volume of solvent recovered from the control system for the 30-day averaging period.

The commentator gave the following example for heatset web offset operations. For heatset web offset operations utilizing incineration for control, the recordkeeping requirements impose a burden with no discernible benefits, since the system is required to operate at 90 percent control efficiency regardless of materials input. In fact, the recordkeeping requirement for offset operations with incinerators operating at 90 percent are actually more stringent than those for facilities using condensation recovery systems that are required to remove only 75 percent of the non-isopropyl alcohol emissions.

Response: The recordkeeping requirements specified in cases where control equipment is employed are necessary to assure that the control device is maintained and performing adequately, so that emissions are controlled to the required level.

USEPA agrees that the daily VOM content of each coating and ink is not necessary for printing lines complying solely by the use of add-on control. The recordkeeping requirements specified in § 52.741(h)(4)(iv)(B)(1) of the proposed rules have, therefore, been deleted. USEPA disagrees that the recordkeeping requirements for offset operations with incinerators is more stringent than for those using condensation recovery systems. Although offset operations using incinerators are required to record control device monitoring data, they are not required to record the VOM content of the fountain solution used for each day on each printing line.

Comment: One commentator had several comments concerning the

proposed test methods as they apply to auto coating operations. In § 52.741(a)(3), under the definition of volatile organic compound, USEPA has proposed that the VOC for compliance will be measured by the approved test methods. To be consistent with USEPA's "Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck Topcoat Operations" (December 1988), the commenter suggested that test procedure for determining VOC should only be applicable to the coatings being exposed to the cure ovens since the test method measures cure volatiles as well as formulation volatiles. Further, according to the commenter, the formulation VOC content should be used for the paint overspray in the application areas. Also, the commenter claimed that provision in § 52.741(a)(4)(i)(B)(1) covering the analytical method (i.e., Methods 24 will govern if there is any inconsistency between a Method 24 result and the formulation data) is inconsistent with the USEPA Automobile Topcoat Protocol, which allows the use of formulation data for the overspray coatings in the application areas and only requires Method 24 for the coating actually experiencing the cure oven.

Response: USEPA acknowledges that the "Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck Topcoat Operations" (December 1988) does allow the use of formulation data for the determination of VOC content for paint overspray.¹⁴ USEPA agrees that automobile or light-duty truck topcoat operations using the protocol should be able to use formulation data to determine VOC content of overspray rather than having to demonstrate compliance using Method 24, as implied by the proposed rule. To clarify the applicable compliance procedures for automobile or light-duty truck topcoat operations, USEPA has both changed the title of § 52.741(a)(4)(ii) from "Transfer Efficiency Test Protocol" to "Automobile or Light-Duty Truck Test Protocol", and the text to cover testing in general, not just transfer efficiency. Consequently, compliance for automobile or light-duty truck coating operations will be determined with USEPA's Topcoat Protocol. USEPA believes that this change should resolve

any inconsistency in the applicable test procedures.

Comment: A commenter suggested that the specification of the size (one liter) of the container for the collection of samples (see § 52.741(a)(4)(A)) is unnecessary. It is recommended that instead the section be revised to indicate that one liter of sample should be collected as a minimum—the size of the container is irrelevant.

Response: The one-liter container size is specified for two reasons: (1) To ensure that enough material is available for analysis, and (2) to provide standardization, throughout industry, for the quantity of material to be analyzed. USEPA believes that, to ensure that samples are collected on an as-applied basis and are not simply a container of paint directly from the shelf, the one-liter size requirement is useful and has retained it in the final regulation.

Comment: One commenter noted that § 52.741(a)(4)(ii) references the procedures outlined in "Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck Topcoat Operations" (protocol), as a method for determining coating applicator transfer efficiency for topcoat coating operations. The referenced protocol was developed for calculating emission rates for compliance demonstration. Transfer efficiency is only one component of the calculation. The commenter recommended that paragraph (a)(4)(ii) be revised to include a statement that compliance with the topcoat limitation should be demonstrated in accordance with the emission rate calculations defined in the referenced protocol (as stated in § 52.741(e)(2)(ii) on alternative emission limitations) and that the use of the referenced protocol (a)(4)(ii) for compliance demonstration should be stated in § 52.741(e)(6)(ii)(A).

Response: In order to resolve any inconsistency in the applicable test procedures, USEPA has changed the title of § 52.741(a)(4)(ii) from "Transfer Efficiency Test Protocol" to "Automobile or Light-Duty Truck Test Protocol". Consequently, compliance for automobile or light-duty truck topcoat operations will be determined with USEPA's Topcoat Protocol. Because the protocol was originally intended to provide guidance in demonstrating compliance and does not contain regulatory language, however, the protocol (as written) cannot be inserted into the regulation as a method of demonstrating compliance. This is because it includes latitude in the manner in which the source will demonstrate compliance. Therefore, the

regulation has been revised to include a requirement that the owner or operator of coating line subject to the topcoat limitation must submit a proposal specifying how it will demonstrate compliance in accordance with the Topcoat Protocol. Recordkeeping and reporting requirements were also included in the regulation. These requirements have been added to strengthen the enforceability of the regulation.

Comment: One commenter questioned the applicability of the test procedures for movable bed carbon adsorption systems to fixed bed carbon adsorption systems.

Response: The test procedures defined in § 52.741(a)(4)(vi)(A) (1) and (2) are applicable to any carbon adsorption system, and the sections have been revised in the final regulation by deleting the term "fixed-bed".

Comment: One commenter strongly disagreed with the requirement that transfer efficiency credits can only be allowed if approved by the Administrator as a SIP or FIP revision for prime surface coating. The commenter recommended the adoption of a prime surfacer coat limit of 15.1 lbs VOC/gallon of solids applied, which is equivalent to 2.8 lbs VOC/gallon coating (minus water and non-VOC organic compounds) based on a transfer efficiency (TE) of 30 percent and a volume solids of 26 percent. By defining the limit at 15.1 lbs VOC/gallon solids applied (as the topcoat limit is defined in § 52.721(e)(1)(i)(A)(3)) an appropriate equivalency option is provided based on the process transfer efficiency without the unnecessary step of a SIP or FIP revision. Another commenter agreed with the basis of this comment.

Response: USEPA believes that the use of transfer efficiency credits can only be allowed if approved by the Administrator as a SIP or FIP revision on a case-by-case basis, unless the approved plan includes both a transfer efficiency test method and an established baseline for the source category in question, as is the case with the Topcoat Protocol. For prime surfacer, there is an established baseline (30 percent), but there is no approved test method. As indicated by its name, the Automobile Topcoat Protocol as currently written is only appropriate for evaluating the transfer efficiency for topcoat operations. It should be noted, however, that the procedures in the Topcoat Protocol could be used as a basis for a prime surfacer transfer efficiency test method. In the absence of a transfer efficiency method approved by USEPA for prime surfacer, site-

¹⁴ This is because cure volatiles are not generated from oversprayed paint that does not cure. Methods 24 includes a 1-hour bake which generates cure volatiles. Therefore, use of Method 24 is appropriate only for coatings which go through an oven.

specific SIP or FIP revisions are required for the use of transfer efficiency credits for prime surface coating.

d. Compliance dates—Comment: Several commentors stated that the compliance date of April 1, 1991 was arbitrary and unreasonable for some sources. Two commentors contended that the compliance period of the generic rule does not allow enough time for compliance, and that a three-year period is more realistic. One commentor cited generally the time required for design, fabrication, and installation of control equipment, and for alteration of the plant, as justifying a compliance date of between two and two and a half years.

Response: USEPA appreciates that the proposed compliance date of the proposed Federal rules may be very difficult, if not impossible, for certain sources to meet. To provide all affected sources some additional time, therefore, the Agency has set a later general compliance date of July 1, 1991. This date allows approximately one year from the effective date of the Federal rules. None of the commentors provided detailed information substantiating the need for more than one year to comply. USEPA notes that sources have been aware of these requirements since the proposal of these rules. Thus, the compliance period is actually closer to one and a half years. Although USEPA would not expect sources to install control equipment based upon proposed rules, USEPA believes it is reasonable to expect sources to initiate contact with potential suppliers based upon such rules. This is routinely done in the context of the NSPS, which apply to sources commencing construction after the date USEPA proposes those standards. If additional time is needed to comply, then a source may apply for a delayed compliance order. Any compliance schedule must meet the CAA requirements for expeditiousness. The Agency has considered relaxed compliance dates for certain site-specific rules, and individual discussions of such rules are contained in section V of this document. In addition, although not addressed directly by any of the comments, USEPA has decided to extend the compliance date of the Federal rule for heatset web offset lithographic printing, paint and ink manufacturing, miscellaneous fabricated product manufacturing, miscellaneous formulation manufacturing, and miscellaneous organic chemical manufacturing for sources subject to the current State rule for these categories. The revision also extends the compliance date for these

sources from the date of promulgation to July 1, 1991. Because the commentors felt that requiring compliance one year from the promulgation date would be too soon in some cases, then it is apparent that requiring compliance upon promulgation would also be too soon in those cases. Thus, USEPA believes it is appropriate to extend this compliance date also.

e. Afterburners—Comment: One commentor felt that the rules are unreasonable and are not RACT because they do not contain the provision for seasonal use of incinerators as contained in the Illinois SIP regulations. Also, USEPA should add a provision which allows for seasonal use of incinerators using more than one fuel. The commentor specifically cited an incinerator that uses both natural gas and electricity. Another commentor stated that they respected the energy efficient approach of this seasonal use of incinerators.

Response: The Federal RACT regulations do contain a provision for seasonal use of natural gas incinerators. Section 52.741(a)(6) states "The operation of any natural gas fired afterburner and capture system used to comply with § 52.741 is not required during the period of November 1 of any year to April 1 of the following year provided that the operation of such devices is not required for purposes of occupational safety or health, or for the control of toxic substances, odor nuisances, or other regulated pollutants." This differs from the Illinois SIP regulation which also allows seasonal use of oil-fired incinerators. National RACT guidance, however, limits this exemption only to natural gas-fired afterburners. USEPA acknowledges the support of the second commentor and will maintain this provision in the final rules. With regard to the natural gas/electric incinerator mentioned by the commentor, the exemption in the Federal rule only applies to the use of natural gas.

USEPA issued a policy in 1980 stating its intent to approve SIP provisions that exempt natural gas-fired afterburner systems from having to operate during the period of the year not prone to the formation of ozone in the ambient air. The policy was based primarily on the existence of a natural gas shortage and the unlikelihood of ozone violations during the winter months. USEPA has implemented this intent through the course of rulemakings on SIP submittals.

The suggestion by the first commentor that USEPA expand the use of seasonal exemptions to other types of afterburners has prompted the Agency

to take another look at the basis for the current policy. The Agency's initial conclusion is that it sees no basis, such as an oil or electricity shortage, for exempting non-gas-fired afterburners from the FIP requirements during the winter months. For that reason, USEPA is not providing such an exemption. Moreover, the Agency is now reexamining whether the exemption included in the FIP rules (quoted above) is appropriate in light of today's energy-supply conditions.

Because owners of facilities that would operate gas-fired afterburners received no notice in USEPA's proposal that the Agency was considering deleting the exemption from the FIP rules, and because the commentors were not suggesting such a deletion, USEPA is for purposes of today's rules retaining the exemption, pending further analysis.

f. Exemptions, variances, and alternative means of control—Comment: Two commentors requested an explanation of the role of alternative compliance strategies, SIP revisions, and site-specific revisions in the Federal RACT rules. One commentor stated that USEPA's proposal does not provide an Adjusted Standard mechanism similar to that provided by the IPCB. One commentor suggested that wherever possible, the Federal rules should allow for alternative standards based on routine records, testing, and reports to demonstrate approvability, rather than requiring SIP or FIP revisions. One commentor objected to the proposed requirement that any variance, exemption, or alternative compliance strategy be submitted for USEPA approval. Another commentor believed that the language of the proposed rule is not clear as to whether plants currently operating under a permit allowing daily weighted averaging would be required to obtain a FIP revision or whether they would be "grandfathered in" so that only plants applying for permits to allow averaging after the promulgation of the rule would be required to obtain FIP revisions. This ambiguity should be clarified.

Response: According to section 110(i) of the CAA, the only way to revise the implementation plan is by a plan revision under section 110(a)(3), a plan promulgation under section 110(c), an order under section 113(d), an exemption under section 118, a suspension under section 110(f) or (g), or a primary nonferrous smelter order under section 119. Except for these six approaches, "no order, suspension, plan revision, or other action modifying any requirement of an applicable implementation plan may be

taken . . . by the State or by the Administrator." Thus, unless the applicable implementation plan provides a State with the authority to modify the plan, such as with a federally approved generic bubble rule, a SIP revision under section 110(a)(3) is required to change the applicable plan.

USEPA policy, as described in the Blue Book, requires modifications of the implementation plan to be submitted to USEPA as a proposed SIP revision. The current State rules allow modifications without USEPA approval. This discretion was cited by USEPA as a deficiency in its May 26, 1988, SIP Call and June 17, 1988, follow-up letter to Illinois. Such State discretion renders the plan inadequate to ensure attainment and maintenance of the NAAQS.

Section 52.741(a)(7) of the proposed Federal regulations clearly states that "Notwithstanding the provisions of any other paragraphs of this section, any exemptions, variances, or alternatives to the control requirements, emission limitations, or test methods in the Illinois SIP or FIP can only be allowed if approved by the Administrator as a SIP or FIP revision". Regardless of whether a source is seeking a revision to a Federal rule or a State rule, USEPA encourages all sources to work through the State to obtain a SIP revision. If submitted to and approved by USEPA, then the SIP revision would replace that portion of the FIP. This would serve to both provide the source with the relief it seeks and to establish the State rule as the applicable rule; thereby restoring the State to its proper role as the lead planning agency.

A SIP or FIP revision is not required for any single line employing daily weighted averaging because this is an acceptable means of complying with the Federal limits. All plants employing averaging across lines (cross-line averaging), however, must have such averaging approved as a SIP or FIP revision. This requirement cannot be grandfathered because cross-line averaging must be demonstrated to satisfy USEPA's Emissions Trading Policy Statement (ETPS), and Illinois does not have an approved generic bubble rule. It should also be noted that several SIP and FIP provisions contain alternative emission limitations and alternative compliance sections which allow options of compliance methods which do not need to be approved as SIP or FIP revisions. The following subparts contain such alternative compliance sections: 52.741(e): Coating Operations (FIP), Subpart K: Use of Organic Material (SIP), and Subpart S:

Rubber and Miscellaneous Plastic Products (SIP).

Comment: Two commentors asked whether alternative test methods must be approved through a SIP revision process. The commentors felt that this method was time-consuming and that a quicker approval process should be available. Another commentor noted that § 52.741(a)(4)(i)(B)(4) allows the Administrator to specify or allow the use of alternate test methods to determine the VOC content of the coatings. This should not be allowed since the test procedure establishes the regulatory limits. Changing the test procedure in effect can change the regulatory limit. Allowing the Administrator to arbitrarily specify alternate test methods would in effect allow the Administrator to arbitrarily change the emission limitations without appropriate public comment periods and without following the necessary rulemaking procedures.

Response: Sections 52.741(a)(4)(i)(B)(4) and 52.741(a)(4)(vi)(G) allow the Administrator to accept adaptations to the analytical method and test methods, if adequately documented. It is frequently necessary to make relatively minor changes to an approved test method so it can be applied to a source being tested. It is not practical to require that such minor changes be approved as a SIP or FIP revision.

Note: 52.741(a)(4)(vi)(G) has been added by USEPA in the final rules to provide the additional flexibility requested by the commentor. Similar provisions for the other test methods and procedures in 52.741(a)(4) were also considered, but were determined to be unnecessary.

An alternative to an existing test method must be approved as revision to the Illinois implementation plan. The chief purpose of these provisions is to allow companies to use more appropriate methods, if the specified method would give inaccurate results.

With respect to the timeliness of the SIP revision process, USEPA will to the extent possible classify such revisions as Table 3 SIP actions (see 54 FR 2214, January 9, 1989). Consequently, these revisions will be processed at the Regional Office level; thus, expediting USEPA's rulemaking.

Comment: One commentor noted that current USEPA policy states that SIP relaxations cannot be approved in nonattainment areas. Based on this policy, the commentor wondered if any variance that constituted a relaxation would be disapprovable. The commentor requested clarification on

the procedures for obtaining a site-specific revision.

Response: The CAA requires that SIPs for areas not in attainment of the NAAQS by August 7, 1977, must provide for the implementation of RACT as expeditiously as practicable. 42 U.S.C. 7502(b)(2). USEPA has defined RACT as the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. 44 FR 53762 (September 17, 1979).

Through the issuance of CTCs, USEPA has identified pollutant control levels that USEPA presumes to constitute RACT for various categories of sources. Where the State finds the presumptive norm applicable to an individual source or group of sources, the State typically adopts requirements consistent with the presumptive norm.

States may develop case-by-case RACT determinations independently of USEPA's recommendation. USEPA will approve these RACT determinations as long as the State shows they will satisfy the CAA's RACT requirements based on adequate documentation of the economic and technical circumstances of the particular sources being regulated.¹⁵

In light of these requirements, USEPA will approve an alternative RACT requirement only if the State demonstrates that the requirement does in fact constitute RACT.¹⁶ To make this

¹⁵ More specifically USEPA has described RACT and the obligations of the States as follows:

Along with information, each CTC contains recommendations to the States of what USEPA calls the "presumptive norm" for RACT, based on USEPA's current evaluation of the capabilities and problems general to the industry. Where the States find [sic] the presumptive norm applicable to an individual source or group of sources, USEPA recommends that the State adopt requirements consistent with the presumptive norm level in order to include RACT limitations in the SIP.

However, recommended controls are based on capabilities and problems which are general to the industry; they do not take into account the unique circumstances of each facility. In many cases appropriate controls would be more or less stringent. States are urged to judge the feasibility of imposing the recommended controls on particular sources, and adjust the controls accordingly.

The presumptive norm is only a recommendation. For any source or group of sources, regardless of whether they fall within the industry norm, the States may develop case-by-case RACT requirements independently of USEPA's recommendation. USEPA will propose to approve any submitted RACT requirement that the State shows will satisfy the requirements of the Act for RACT based on the economic and technical circumstances of the particular sources being regulated. 44 FR 53762-63 (September 17, 1979).

¹⁶ Generally, USEPA does not allow relaxations in nonattainment areas where there is no approved attainment demonstration. USEPA wishes to clearly

demonstration, the State must show first that in fact the current SIP requirements do not represent RACT because pollution control technology necessary to reach the requirements is not (and is not expected to be) reasonably available, and second that the alternative limit is the most stringent limit that is technically feasible and economically reasonable. USEPA will determine whether the State makes this demonstration on a case-by-case basis, taking into account all the relevant facts and circumstances concerning each case. The demonstration requirements to support an alternative RACT limitation are discussed in more detail in appendix A of the November 9, 1988, notice of proposed rulemaking for Easco Aluminum Corporation (53 FR 45285).

2. Surface Coating

Comment: Several commenters objected to the change to the coating rules which made the coating applicator instead of the coating line the affected source. They felt this made the rule more stringent than the NSPS, inconsistent with Agency RACT guidance, and inconsistent with the SIP Call.

Response: Three compliance options are available for coating operations: use of only complaint coatings, daily weighted averaging of coatings, and add-on controls. For sources electing to comply through the use of compliant coatings, the Federal rules specify that the regulated unit is the coating applicator. This is consistent with the concept that each coating used meets the applicable emission limit. Alternatively, sources may elect to comply by either daily weighted averaging or add-on controls. In both of these cases, the Federal rules clearly state that the regulated unit is the coating line. Thus, USEPA believes its rules, as proposed, are consistent with established regulatory practice and that the commenters simply misunderstood the regulation.

state, however, its intent to revise (and possibly relax) the Federal plan, if found to be appropriate, for at least two sources (Allsteel in Kane County and Viskase in Cook County). The need to promulgate Federal regulations under the tight timeframe ordered by the Court has prevented USEPA from being able to consider fully the merits of proposed, alternative site-specific limits. Although for environmental and equity reasons, USEPA believes that it is necessary to establish emission limitations and standards for all sources at this time, USEPA will continue to consider the need to adopt as Federal measures site-specific limits for these two sources. As such, USEPA is deferring the effective date of these Federal rules for Allsteel and Viskase until January 1, 1991, in order to allow additional time for its consideration of this matter. If determined to be appropriate, then USEPA will propose revised Federal limits in the near future.

Comment: One commentator felt that there is an apparent conflict between the stated deficiency regarding exemptions for coating facilities and the coating rules as proposed. Whereas the exemption cutoff is supposed to be 3 lb/hr or 15 lb/day actual emissions before add-on control or 10 TPY maximum theoretical emissions, the regulation contains an exemption level of 15 lb/day actual emissions. The commentator believed that this made the rule vague and confusing.

Response: Section 52.741(e)(3), Exemptions from Emission Limitations, states that "The limitations of paragraph (e) shall not apply to coating lines within a facility, that otherwise would be subject to the same subparagraph of paragraph (e)(1)(i) (because they belong to the same source category, e.g. can coating), provided that combined actual emissions of VOM from all lines at the facility subject to that subparagraph do not and will not exceed 6.8 kg/day (15 lbs/day) before the application of capture systems and control devices." USEPA's choice of a single exemption level is entirely consistent with the stated deficiency and Federal guidance. The exemption level is not calculated after controls as the commentator seems to believe, and, thus, does not make the rule vague or confusing.

Comment: One commentator felt that daily weighted averaging should not be restricted to a single coating line, but should be allowed across several lines. Elimination of the crossline averaging provision could require that some items be coated twice, resulting in increased emissions. A second commentator found the daily weighted averaging proposal to be ambiguous. While a USEPA official at the public hearing stated that such provisions would not have to go through the SIP revision process, the NPR indicates otherwise.

Response: Intraline averaging (i.e., daily weighted averaging) is acceptable because the regulated unit is a coating line. Interline (i.e., cross-line) averaging constitutes a bubble which must be submitted for USEPA approval as a SIP or FIP revision. Interline averaging is permissible and, therefore, would be approved if the request meets the requirements of the ETPS—see 51 FR 43814, December 4, 1986. Because Illinois does not have a federally approved generic bubble rule, which ensures conformance with the ETPS, cross-line averaging is allowed only if approved as a site-specific SIP or FIP revision. Finally, USEPA does not believe that its position on cross-line averaging will result in items being coated twice and an increase in emissions. These Federal

rules are primarily directed towards regulating the level of control technology and not production levels. Furthermore, it has not been demonstrated that the Federal rules will necessitate a source to coat some items twice. Even if this was the case, however, then USEPA believes that an increase in emissions can still be prevented (e.g., through the use of add-on controls or the use of a federally approved SIP or FIP revision allowing cross-line averaging).

Comment: The proposal defines an acceptable averaging time for VOM compliance demonstrations to be either instantaneous or as daily weighted averages. For many facilities where complex material usage allocation schemes, production schedules, and equipment operations are experienced, compliance demonstrations on a 24-hour basis would be unreasonable. While past policy and guidance documents suggested that hourly or 24-hour averaging times were most appropriate, consideration was given in these documents to monthly averaging times under extenuating circumstances. In addition, Federal NSPS specify 30-day compliance averaging periods.

Response: USEPA policy states that averaging periods in excess of 24 hours are not allowed generically. Longer term averaging of emission control requirements, in general, may not be consistent with protecting the short-term ozone NAAQS. A facility can only obtain greater than daily averaging as a site-specific SIP revision if the elements of USEPA's January 20, 1984, policy memorandum are satisfied. Key elements of this policy are a demonstration that daily recordkeeping is infeasible, and a demonstration that there is an approved attainment demonstration for the area. The elements of the 1984 policy are necessary to assure that affected sources meet the requirement to apply RACT and not interfere with reasonable further progress toward attainment of the ozone NAAQS.

Comment: One commentator claimed that certain coating/ink emission limits in the proposed rules are not based on the amount of solids applied, as is required when an averaging method or add-on controls are being used. Also, the commentator suggested that the actual density of the VOC in the coating, rather than the default value of 7.36 lb/gal, should be used in the equation given in (e)(1)(iii) if its value is known. Another commentator pointed out that equation in § 52.741(e)(1)(ii)(C)(2) contained an error.

Response: Allowable emissions are determined on a solids applied basis,

and actual emissions are determined on a volume of coating basis. USEPA maintains that this is properly reflected in the proposed rules. USEPA contends that the solvent density used in developing the CTG coating limits (7.36 lbs/gal) must be used in the equation given in (e)(1)(iii), for the purposes of determining allowable emissions. Also, the typographical error that existed in the equation has been corrected.

Comment: In § 52.741(e)(6)(ii)(C)(1), the proposed regulations require the submittal of any records showing violation of § 54.721(e)(1)(i) within 30 days following the occurrence of violation. This would be impossible for a source subject to § 52.741(e)(1)(i)(A)(3) to comply with since the emission calculations for the month cannot be completed until the data for the entire month have been compiled. Final emission calculation results would not be available until approximately 10 days after the last day of the month to allow for necessary data review and calculation time. If a violation occurred during the first week of the month, the 30 day time requirement could not be met. It was recommended that this requirement be revised.

Response: The rules presume that 30 days is sufficient both to identify and to report any violation. Because certain companies may have monthly recordkeeping practices, however, timely identification of violations may not occur. Therefore, for any source subject to § 52.741(e)(1)(i)(A)(3) the regulation has been modified to require that notification be provided within 15 days from the end of the month during which the violation has occurred.

3. Generic Rule

Comment: Two commentors asked whether the specific generic sources had been identified, and whether sewage treatment plants would be covered by the generic rule. Other commentors objected to the proposed generic source rule, believing that the affected industries should be stated, the rule is unsupported, and the rule appeared to exceed the guidance in the Blue Book as well as the terms of the litigation and the settlement agreement.

Response: USEPA feels that it has addressed the deficiencies cited in Exhibit B of the settlement agreement with regard to the generic rule and has not exceeded these or Federal USEPA guidance. A memo dated December 21, 1989, was prepared (and placed in the docket) which identified, based on the emissions inventory, companies which

may be affected by the generic rule.¹⁷ This is not a formal determination of affected facilities but may be used to gain some idea of which facilities may be affected. The cover sheet on this memorandum states:

The review discussed in this memorandum is intended to provide a best estimate of the number of facilities affected by the proposed rule. It is not intended to be a formal determination of the exempt or subject status of each facility. While this review may assist USEPA in preliminarily identifying the status of several facilities, this determination will be made in the future pursuant to the certification provisions of the proposed rule.

With regard to sewage treatment facilities, USEPA acknowledges that it did not intend, due to the lack of available technical justification, to subject these facilities to the generic rule. USEPA has, therefore, added sewage treatment plants to the list of exempt source categories specified in § 52.741(x). As such, sewage treatment plants are exempt from the Federal generic rule and, consequently, will not be regulated at this time.¹⁸

Comment: Two commentors felt that the provision requiring control of "Other Emission Sources" ignores earlier IPCB efforts and determinations as to the definition of RACT for these sources in Illinois. Another commentor added that USEPA's attempt to document the rationale for the "catch-all" generic rule (§ 52.741(x)) is devoid of logic. The commentor contended that neither the TSD nor the NPR contain sufficient analysis or justification for the Federal rule. USEPA has improperly calculated the cost of this rule and has failed to consider the State's determination that coverage of "other emission sources" is simply not RACT in Illinois. Another commentor believed that § 52.741(x) goes beyond the Blue Book requirements, is more stringent than USEPA is requiring of other States, and is inconsistent with the terms of the settlement agreement. Another commentor felt that § 52.741(x) cannot effectively or fairly regulate diverse emission sources which may be covered by this requirement, and that USEPA should take the time to develop specific source type regulations. This commentor was especially concerned with the rule's

applicability to aluminum cold rolling processes.

Response: USEPA wishes to point out that a "catch-all" generic rule is needed for the regulatory approach chosen by the State. This is because the Illinois category-specific approach may not cover all major non-CTG sources for the following reasons. First, the existing emission inventories may not be accurate with respect to actual emissions or maximum theoretical emissions, before add-on controls. Second, USEPA guidance clarifying existing policy on major non-CTG applicability was not established until May 25, 1988, when the Blue Book was released. This date is after the date when non-CTG rules were developed for many areas. Third, there is no compelling incentive for states to ensure that they have identified and developed RACT regulations for all major non-CTG sources. Consequently, a backstop generic major non-CTG rule is needed for Illinois. This rule would apply to all sources that should be subject to a major non-CTG rule, based upon Blue Book applicability criteria, only if the source is not already covered by a non-CTG source category rule. To be consistent with RACT, the control requirement of this rule should be at least as stringent as 3.5 pounds of VOC per gallon of coating or 81 percent overall control. Adoption of such a rule presents virtually no administrative drawbacks (sources covered by an existing non-CTG rule will not be affected) and produces potentially significant environmental benefits.

USEPA believes that it is being responsive to claims by individual companies or facilities that the regulations are not reasonable for their situation. Such cases are addressed in section E for facilities which provided detailed information supporting their argument. In the case of aluminum cold rolling processes, the commentor failed to provide any information which supported the claim that the control requirements of the generic rule are unrealistic for the cited industry. Consequently, USEPA has made no change in the proposed rule as it applies to this source category.

Comment: One commentor was concerned that sources employing a hexane extraction process for producing vegetable oil might be regulated under USEPA's proposed generic rule. Such sources are currently covered by subpart N of the Illinois regulations, and as such are specifically exempted from the State's generic rule. The commentor pointed out that no other States appear to be regulating this type of source, and

¹⁷ It should be noted that a reanalysis of the impact of the Federal generic rule was performed by USEPA's contractor to account for the additional exempt source categories. The list of affected facilities and estimated impacts in the reanalysis and the initial analysis are comparable.

¹⁸ USEPA is currently working on control guidance for sewage treatment plants, which may result in the development of control requirements at some time in the future.

USEPA itself has in the past found that no control technology is available for controlling these emissions.

Response: USEPA was informed by IEPA that there were no major non-CTG vegetable oil processing plants in the Chicago area. There was, therefore, no reason for USEPA to document control technology for this source category. In view of the commentor's admission that it is a major source and a vegetable oil processing facility, however, USEPA has reconsidered its prior position. USEPA believes, however, that additional control technology for vegetable oil processing cannot be identified at this time and has abandoned efforts to do so either for NSPS or RACT (CTG) purposes. Therefore, the final rules include vegetable oil processing in the list of exempt source categories specified in § 52.741(x). As such, vegetable oil processing will be exempt from the Federal generic rule.

Comment: One commentor was concerned that the generic rule might impact a number of currently unpermitted sources. The commentor noted that bakeries had been specifically exempted from the rule, and felt that other food and food derivative processes in which VOM is not added and is not a primary product of the process, but is emitted secondarily, should also be exempted.

Response: The commentor did not describe in any more detail which specific processes would be included in this group of food and food derivative processes, other than bakeries which are already exempted. Therefore, USEPA has no basis for considering an appropriate categorical exemption beyond the bakery exemption. Any major non-CTG sources that are not exempted must apply reasonable controls, either as specifically stated in the regulation or through an approved alternative control plan. For example, a source that could not achieve an overall emission reduction of 81 percent as otherwise required would have to develop a reasonable control plan and submit it for approval as a SIP or FIP revision.

4. Implementation and Administration

Comment: IEPA foresaw problems regarding the implementation and administration of the proposed regulations. Their comments addressed daily weighted averaging for coating operations, alternative emission limitations for coating operations, compliance procedures, limitations on production (or capacity) to reduce emissions below 100 tons per year, notices of violation, recordkeeping, and State authority.

Response: In response to these comments, the following revisions to the proposed rules have been made: (a) Afterburners have been added to the list of control devices in § 52.741(e)(2)(i)(B), (b) the weight of VOM per volume of coating solids on a daily basis need only be recorded (in § 52.741(e)(6)(iv)(B)(1)) when complying pursuant to § 52.741(e)(2)(i)(B), and (c) the word "initial" has been added to all references to the start-up of new sources. Further discussion of USEPA's review of these comments and the subsequent revisions to the proposed rules is provided in the USEPA's comment/response document contained in the docket.

5. Technical Support for Proposed Federal Rules

Comment: Several commentors felt that USEPA had not provided sufficient justification for many of the proposed measures, either in the *Federal Register* notice or the technical support document. One of them said that there was no evidence to support the contention that there would be any air quality benefit from many of the regulations. One commentor believed that USEPA was considering the CTG guidance and the Blue Book not as presumptive norms, but as absolute limits, without providing the necessary demonstration that they represent RACT. Several commentors stated that the Blue Book, the post-87 policy, and the ETPS were only guidance documents and questioned the importance given to them. As a result, the commentor suggested that USEPA has totally ignored questions of economic reasonableness, technical feasibility, or fairness.

Response: USEPA believes that sufficient justification was provided for the proposed measures. Two major sources were used to support the regulations. The first of these was Federal guidance material containing presumptive norms for RACT. For the most part, this guidance material consisted of CTGs and the Blue Book. The other major source was information provided to USEPA regarding State rulemaking in Illinois. All applicable CTGs and the Blue Book are present in the rulemaking docket. It should also be noted that the commentors have overlooked the significance of the Blue Book, as called for by the settlement agreement. As noted previously, the settlement agreement requires USEPA to propose and, if necessary, promulgate revised RACT rules in accordance with the Blue Book. Thus, the Blue Book is the court-sanctioned standard for these rule revisions.

USEPA maintains that it included in the docket all relevant supporting material, including the main guidance documents, which it considered directly in developing its proposal. These documents include the technical support for USEPA's RACT determinations. The State rulemaking records provided additional information and support for regulations which in some instances followed the same guidance used by USEPA, and in other instances deviated from these norms. USEPA examined these State proceedings and determined if such deviations were warranted.

Thus, the proposed Federal rules were based on USEPA guidance material and, where justified based on specific information applicable to Illinois, deviated from these norms. Examples of these deviations are the high-temperature aluminum coating limitation for General Motors Electro-Motive Division (GM-EMD) and the Pharmaceutical Manufacturing regulations. However, in many instances, USEPA did not believe the State's proposed variation from the national guidance was justified. The support for USEPA's position on State rule submittals is contained in various Technical Support Documents contained in section XII of the rulemaking docket. In these cases, USEPA did not feel the information provided by the State fully supported a departure from Federal guidance. It should be noted that the burden of proof is on the State to convince USEPA of the necessity of the rule departure from national RACT guidance. In the absence of this satisfactory evidence, USEPA has returned to its basic RACT guidance.

Several commentors fulfilled this burden of proof obligation and provided appropriate technical support for their case which USEPA considered and found to be valid. Therefore, the final regulations were changed to reflect these comments, and discussed below.

Comment: Two commentors felt that USEPA's action in proposing RACT rules is clearly inconsistent with its own policy, which provides for the consideration of technological and economic factors in RACT determinations. Other commentors stated that USEPA has the burden of demonstrating RACT, and that USEPA has not sustained this burden. The commentors believed that there was no evidence that USEPA analyzed these RACT factors or the pertinent IPCB information in developing its proposed rules and USEPA must grant deference to the States' RACT determinations. A third commentor thought USEPA had relied on the concepts generally

associated with best available control technology (BACT), not RACT. determinations. This commentor also stated that the CAA does not empower USEPA to reject a State's rules because they do not meet a presumptive guideline of RACT. Another commentor stated that it is not clear what criteria USEPA uses in determining what is "reasonable". Also, one commentor stated that the State of Illinois has attempted to submit approvable rules (such as the generic rule), but USEPA keeps redefining what constitutes RACT.

One commentor stated that a plan proposed by USEPA in place of a State plan must be in accordance with RACT. A FIP cannot go beyond RACT, it can only be as stringent as reasonably necessary to assure timely attainment and maintenance.

Response: USEPA has defined RACT as the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. 44 FR 53762 (September 1979).

Through the issuance of CTGs and related guidance such as that contained in the Blue Book, USEPA has identified pollution control levels representing or presumed to be RACT for various categories of sources. Because the Federal rules are consistent with this guidance, USEPA does not believe that these rules go beyond RACT. It should also be noted that these rules are not consistent with NSPS, which would be the case if USEPA were relying on BACT concepts.

USEPA determines RACT on a case-by-case basis taking into account many factors, including the costs of controls, the age and size of the facility, and the feasibility of controls at similar facilities. The determination of what technology constitutes RACT for a given source category can, and does, change over time, with the determination being made at a given time that the selected technology represents the most stringent technology that is technologically feasible and economically reasonable for the source category.

USEPA will approve alternative RACT determinations provided that a demonstration is made that: (1) The presumptive norm is not technologically feasible or not economically feasible for the source in question, and (2) that the proposed limit is the most stringent limit that is technologically and economically feasible. Because the individual source has a greater knowledge of its own operations than USEPA, it simply makes more sense that it come forward with any information showing that what

USEPA proposed as RACT for its facility is not technologically feasible or economically reasonable, rather than placing this initial burden on USEPA.

An important part of this analysis is an examination of the level of control in place at similar facilities (including, but not limited to the same CTG category). A detailed discussion of what USEPA considers to be an acceptable alternative RACT investigation is contained in appendix A of the November 9, 1988, notice of proposed rulemaking for Easco Aluminum Corporation (53 FR 45285).

USEPA's technical support document, and appendices, do demonstrate consideration of the facts presented in the IPCB hearing record. The principles stated above were used by USEPA in evaluating RACT for the Chicago ozone FIP. USEPA can only accept proposed State rules if they constitute RACT. The State must provide support for RACT determinations that differ from national guidance.

Finally, it should be noted that the ultimate emission reduction needed for attainment is so large that these rules are necessary, although not sufficient, to provide for attainment. As noted in the NPR, reductions beyond the level of control in the CTGs may even be necessary.

Comment: Two commentors felt that the TSD does not analyze the costs of compliance with the proposed rule to any particular industry, and thus, USEPA has not followed its own policy on source-by-source determinations of RACT. The commentors felt that it is necessary and appropriate for USEPA to determine the actual economic impact of the remaining proposals on Illinois industry.

Response: Determination of impacts on an individual facility basis was neither feasible within the court-ordered time frame nor practical given the large number of sources in the six-county area covered by the Federal rules. USEPA, therefore, found it necessary to rely upon general category data and to focus on the entire source category (rather than individual facilities) for the purposes of assessing the impact of the proposed rules. USEPA expected that where its general category assumptions were invalid for a specific facility, that facility would so notify USEPA during the comment period. In fact, several companies did submit site-specific information which USEPA reviewed. This material is discussed on a site-specific basis in section E of this notice. Also, the regulations allow a company to apply for a site-specific SIP or FIP revision if they do not believe that the

general category assumptions are applicable to their situation.

Comment: One commentor believed, based on discussions with IEPA staff, that the FIP emissions inventory is incorrect because USEPA's contractor did not meet with IEPA to discuss the origins of the State inventory that was provided to USEPA. As a result, the commentor concluded that the environmental benefits of, and need for, the FIP had been greatly overstated.

Response: USEPA has attempted to use the State's emissions inventory data, to the extent that these data are consistent with national policy for post-1987 emissions inventories. IEPA originally provided USEPA, and its contractor, with a copy of its inventory of carbon monoxide, nitrogen oxide, and VOC emissions in May 1989. Numerous discussions were held between USEPA, and its contractor, and IEPA to resolve various questions and concerns related to this version of the State's inventory. USEPA relied on that inventory in its July 11, 1989, ANPR on the Chicago ozone FIP. In response to public comments on the ANPR by IEPA (and other parties), USEPA made certain changes to the inventory. On December 31, 1989, IEPA submitted an updated version of its emissions inventory. Any questions concerning the IEPA's submittal were discussed and resolved with IEPA. Where relevant, USEPA has attempted to rely on this latest version of the inventory in assessing the impacts of the Federal rules. Thus, contrary to commentor's claim, USEPA believes that it has used the best data available and, as such, has not overestimated the impact of the Federal rules.

Comment: Several commentors claimed that the high cost effectiveness values (cost per ton VOC reduced) cited by USEPA for many source categories, such as large appliance coating, could not be justified as RACT.

Response: Although the cost effectiveness for large appliance coating (and other surface coating categories) initially identified in the TSD for the NPR appeared to be unreasonably high, it must be remembered that this initial cost estimate conservatively assumed that compliance would be achieved primarily through the use of add-on controls. As noted above, USEPA has reevaluated its assessment of affected facilities and the compliance costs. This reevaluation, which has been incorporated in the TSD for this final rulemaking, indicates much lower costs and more reasonable cost effectiveness, based upon compliance primarily through other techniques.

Comment: One commentator believed that no serious effort has been made by USEPA to estimate the potential cost impact of the proposed generic rule, and that the cost to a single facility might actually be as high as \$20 million. Another commentator felt that USEPA's reliance on cost data from the IPCB hearing record was inappropriate in view of the differences between the State and proposed Federal generic rules. In particular, one commentator objected to the use of the \$5000 per ton figure to determine impacts for sources which are exempt from the State rule, but subject to the proposed Federal rule.

Response: The economic impacts reported in the TSD for the NPR were based on information from the State proceedings regarding the approximate cost for the average affected facility. The cost for a single facility could be more or less than any average value. Public comments were also received from many companies which considered the proposed generic rules to be unreasonable for their company. USEPA's review and response to these concerns are addressed in section E below.

As noted in the TSD, USEPA has exempted certain source categories from its generic rule on the basis of documentation from the IEPA and the IPCB. USEPA has attempted to exempt from its generic rule the same categories as the State, as well as a few other categories in response to the public comments.

Finally, in performing the economic assessment, USEPA has attempted to determine the basic economic impact of these rules. For some of the sources, which are subject only to the Federal generic rule, a higher cost was included to be more conservative in the analysis.

D. State Rules

Comment: Several commentators claimed that USEPA had not provided sufficient support for its action on the State rules. The commentators felt that USEPA had only made conclusory statements regarding the State rules without any justification.

Response: Documentation for USEPA's proposed rulemaking is contained, in summary fashion, in individual TSDs prepared by Region V and, in more detail, in the file. USEPA believes that its action on the State rules is supported by this material.

Comment: Several commentators believed that USEPA did not analyze or respond to the information in the State rulemaking record. The commentator noted that section 110(c)(1) requires USEPA to consider any State hearing record prior to promulgation of any

Federal rules. One commentator claimed that the Illinois process worked, and that the Illinois system produced a set of RACT rules which controlled emissions while not burdening any particular industry with a requirement that was technically infeasible economically unreasonable.

Response: USEPA has considered the IPCB record. USEPA's TSDs (which are included in USEPA's record and in the appendices to USEPA's TSD for its proposed rulemaking) on individual State rules were prepared after careful and thorough review of all of the State rulemaking record that was submitted to it by IEPA. USEPA must independently evaluate any RACT determinations submitted to it for its approval to ensure that they are consistent with the requirements of the CAA and related USEPA policy.

Comment: One commentator noted that the State has adopted and submitted to USEPA numerous RACT rules which have yet to be acted on by USEPA. These delays are in violation of the CAA requirement that SIP submittals be acted upon within four months. It is improper and contrary to the CAA to hold these submittals "hostage" and then to promulgate a FIP to fill the void created by USEPA's failure to approve a SIP.

Response: USEPA notes that the requirement in section 110(a)(2) for the Administrator to approve or disapprove a plan (or portion thereof) within four months of the required submittal date applies solely to the initial plan submittal in response to the promulgation of a NAAQS or a revision of the NAAQS, as noted in section 110(a)(1). Revisions to an approved plan are not contemplated in section 110(a)(1) except in response to a NAAQS revision. Thus, the four months processing requirements is not relevant in this situation. Instead, USEPA is required to act generally on SIP revisions within a "reasonable time". This issue is considered in *United States v. General Motors Corp.*, 89-369, which is pending before the United States Supreme Court.

USEPA recognizes that the State has submitted several revised rules to USEPA for incorporation in the SIP. USEPA has attempted to deal with most of these SIP revision requests as part of this rulemaking. The few remaining revisions not included here, such as revisions to the SOCMIL Leak rule and site-specific RACT determinations for Allsteel and Viskase, will be addressed in a future Federal Register notice. USEPA has delayed the effective date of these rules for Allsteel and Viskase to allow for further consideration of the

pending submissions. If USEPA concludes that those submissions are adequate to justify revisions to the rules being promulgated today for those two sources, then it will endeavor to make those revisions as soon as possible.

With respect to prior rulemaking, USEPA reviewed the history of past rulemaking action in the NPR and will not repeat it here. This review demonstrated USEPA's efforts to process various SIP revisions on a timely basis, yet allowing the State enough time and flexibility to revise portions of its submittals which were not acceptable. As noted above, however, USEPA can no longer defer to the State and must move forward to federally promulgate the necessary revisions at this time pursuant to the court's order on this matter.

Comment: One commentator questioned the status of pending alternative compliance requests, and wondered whether the process of obtaining Federal approval would have to be repeated. Another commentator believed that requests for adjusted RACT standards pending before the IPCB had not been considered or addressed by USEPA in developing this proposal. These submittals would seem to correct the deficiency cited by USEPA that alternative plans be submitted for USEPA approval. USEPA should approve these submittals rather than proposing a FIP to replace the deficient rule.

Response: As discussed earlier, there are SIP submittals provided to USEPA which were not discussed in the NPR because USEPA had yet to complete its review. These State submittals need not be resubmitted. The submittals are currently undergoing analysis by USEPA and will be addressed in future rulemaking. USEPA maintains that site-specific revisions need to be submitted individually for USEPA approval and the State is responsible for continuing to submit site-specific revisions in the future.

Comment: One commentator felt that USEPA should apply its 5 percent equivalency rule (i.e., a demonstration that there is a 5 percent or less difference in allowable emissions under the rule consistent with RACT guidance and the rule proposed by the State for a given source category) to the State rules before considering their disapproval. Another commentator added that there is no indication in the docket that USEPA examined whether the 5 percent rule might be applicable, and, if so, might be applied to avoid the need for Federal promulgation.

Response: The basic purpose of the 5 percent rule is to provide a mechanism for allowing States flexibility in developing their regulations. Also, the procedure can only be employed to justify minor source exemptions or the selection of differing cutpoints for regulatory coverage within a CTG category. The deficiencies with the rules cited by the commentator did not involve just a change in the exemption level, so the procedure would not be applicable in these cases. Further, USEPA is not required to apply the 5 percent procedure for rules it promulgates as federal measures. The commentator did not provide any evidence that they or the State had performed any calculations which led to their conclusions. It should be added that when the State submits its SIP rules to replace the Federal RACT rules, it has the opportunity at that time to perform the 5 percent procedure and show that the exemption levels in the State rule cause no "substantive difference" between the State rule and the Federal rule.

Comment: Several commentators claimed that USEPA had preliminarily approved the substance of the State's proposed generic rule, and felt that no reason has been given for the Agency's change of position on this issue. Another commentator felt that USEPA should approve the well-documented State generic rule rather than adopting its own "poorly-documented" rule.

Response: The commentators provided no basis for their claim that USEPA had preliminarily approved the State's generic rule. Therefore, USEPA is unable to respond in full to that portion of the comment. Even if USEPA had suggested that the generic rule as originally submitted for review seemed to be approvable, the final rule formally submitted as a SIP rule was different from the earlier version.

The reasons for disapproving the State's generic rule are provided in the January 23, 1989, USEPA Region V TSD. This TSD is also located in Appendix I of the TSD for the proposed Federal rules. In addition, the deficiencies are listed in Exhibit B of the settlement agreement. Therefore, USEPA maintains that reasons for the disapproval of the generic rule are well documented.

Furthermore, USEPA's generic rule is well documented. To the extent possible, it is consistent with the Illinois generic rule. The differences between USEPA's and Illinois' generic rules are based upon the deficiencies with Illinois's rule cited in USEPA's January 23, 1988, Technical Support Document and Exhibit B of the settlement agreement. Therefore, USEPA's generic

rule is simply Illinois' generic rule modified to conform with USEPA guidance.

Comment: One commentator objected to the manner in which the disapproval of the internal offset rule was conducted. USEPA has not identified what problems exist, if any, with the Illinois internal offset provisions with respect to satisfying the requirements for generic approval outlined in the Blue Book and the ETPS. USEPA should inform the State of the changes needed to qualify the internal offset rule as a generic rule, rather than declaring that all determinations made by the State pursuant to the rule must be submitted for SIP approval and cannot become effective until that approval is granted. The Illinois internal offset rule is a generic emission trading rule within the meaning of the ETPS. If USEPA believes it fails to meet the requirements of the ETPS, then it is obliged by its own policy to publish a **Federal Register** notice identifying the deficiencies in the rule and means for correcting them.

Response: USEPA does not believe that the State intended its internal offset provisions ("Aggregation of Emission Sources") to be a generic rule and, thus, never reviewed it as such. In any case the internal offset provisions would not be approvable as a generic bubble rule because, for example, it does not require the use of lowest of actual or SIP/RACT allowable emission baselines for all sources involved in the trade, and it does not require that the baseline be further reduced by 20 percent. In addition, the rule does not contain many of the procedural requirements (e.g., notification and public comment) specified in the ETPS. Should Illinois wish to have its internal offset rule approved as a generic rule, then it must comply with all requirements of the ETPS and submit the rule for approval under that policy.

Comment: Two commentators felt that the internal offset provision, which allows daily weighted averaging of coatings in determining compliance, cannot be a RACT deficiency since it has been approved by USEPA. The commentators cited a recent court decision (i.e., *U.S. v. Allsteel*, No. 87, C4638 [ND IL 1989]) as support for their position. Another commentator believed that USEPA's bases for disapproving Illinois' Aggregation of Emission Sources (internal offset) rule [Section 215.207] (that compliance arrangements are embodied in State operating permits that have expiration dates and the need to submit offsets for USEPA approval) are unfounded, inconsistent with prior USEPA guidance, and not relevant. The commentator pointed out that if a permit

expires without renewal, the authorization to use section 215.207 also terminates. If necessary, then USEPA should add a requirement such as:

No person shall comply with 35 Ill. Adm. Code Part 215, Subpart F, by means of Section 215.207 without having a current operating permit pursuant to part 201 specifying the compliance procedures to be used to determine emissions for purposes of Section 215.207.

Response: USEPA acknowledges that on February 21, 1980 (45 FR 11472), it approved rule 205(N)(4), "Internal Offsets", as part of the Illinois SIP. (Note, the SIP approved rule, 205(N)(4), is significantly different than the internal offset provision, 215.207, in the current State rules.) On December 4, 1986, however, USEPA published its final ETPS. The ETPS established uniform criteria for "generic bubble" rules which allow States to approve certain types of individual source transactions without the need for case-by-case SIP revisions or associated Federal review prior to approval. As part of its national review in early 1988 of SIPs to determine conformance with the Agency's RACT guidance, USEPA determined that SIP rule 205(N)(4) does not meet the requirements of the ETPS. As such, USEPA informed the State that the internal offset rule was deficient as a generic bubble rule and that all internal offsets must be submitted as SIP revisions, until Illinois has an approved generic bubble rule, and must comply with USEPA's ETPS. Because Illinois has failed to respond adequately to this notification, USEPA is proceeding with federal promulgation pursuant to section 110(c)(1)(C) of the CAA.

Section 52.741(a)(7) states that:

"Notwithstanding the provisions of any other paragraphs of this section, any exemptions, variances, or alternatives to the control requirements, emission limitations, or test methods in the Illinois SIP or FIP can only be allowed if approved by the Administrator as a SIP or FIP revision." This approach is consistent with the mandate of section 110 to provide for attainment and maintenance of the NAAQS, as well as USEPA's ETPS.

USEPA disagrees with the commentator as to the breadth of the decision in *U.S. v. Allsteel*, and that it in any way constrains the Agency in this rulemaking. To the extent that the Court based its decision on any ambiguity in USEPA's February 21, 1980, rulemaking on Illinois' internal offset provision, this rulemaking resolves such ambiguity and provides an approach which is consistent with the CAA and USEPA policy.

Finally, USEPA has reviewed the commentor's suggested rule modification, but believes that such a change is inappropriate in this rulemaking. Undertaking such a rule change in this final action without prior proposal raises difficult legal and procedural concerns. Furthermore, in view of the other problems noted above, USEPA believes that the State's internal offset rule is not approvable, even with such a change. Thus, USEPA will not modify the rule as suggested and will, instead, proceed with final rulemaking on the rule submitted by the State.

Comment: A commentor noted that USEPA had not taken action on Illinois' subpart N: Vegetable Oil Processing because of an erroneous negative declaration made by the State for this source category. The commentor said that its process could comply with a shorter (30-day) compliance averaging period than the 180-day period specified in subpart N, if that change would make the State's rule approvable by USEPA. The commentator stated that USEPA should promulgate subpart N in the FIP (amended to correct the averaging period), rather than include vegetable oil processing under the generic rule.

Response: On October 2, 1986, Illinois notified USEPA that it had carefully reviewed its emission inventory and found no vegetable oil processing sources with VOM emissions equal to or greater than 100 TPY located in Illinois' nonattainment areas. On July 10, 1987, USEPA approved Illinois' negative declaration for vegetable oil processing. Illinois' 1988 inventory, as submitted on December 31, 1989, however, indicates actual plantwide emissions (adjusted for rule effectiveness) and plantwide maximum theoretical emissions greater than 100 TPY for at least one such source. It, therefore, appears that the State's negative declaration is no longer correct. Nevertheless, in view of USEPA's decision to exempt vegetable oil processing from the Federal generic rule, the effect of the previous negative declaration is moot. Also, USEPA does not believe that promulgation of a Federal rule for vegetable oil processing is justified at this time. Consequently, such sources are exempt from the generic rule and are not currently subject to a federally approved SIP rule.

Comment: One commentor questioned the basis for changes made to the State's rule covering pharmaceutical manufacturing, stating that the rulemaking record did not provide this rationale.

Response: Page 8-1 of the draft TSD states that the principal deficiencies for the State pharmaceutical rules were the methodology for determining vapor

pressure and the unenforceable portions of the rule. The draft TSD also states that: "There are additional differences between Illinois' adopted rule and the proposed Federal rule. These differences are generally based on the Illinois EPA's March 1989 proposed rule and the June 7, 1989, letter from USEPA Region V to IEPA addressing enforceability concerns. These items are contained in Appendix G.1." USEPA feels that the reasons for the changes in the pharmaceutical manufacturing regulation were adequately described in the TSD and appendix G prior to proposal.

Comment: Two commentors stated that if the Agency is going to rely on comparisons with another company in its determination of RACT, then it should use its authority under section 114 to gather such information and make all resultant information available in the record.

Response: In evaluating RACT for certain source categories, USEPA has in some instances obtained information on other companies within those categories. This information-gathering process included the use of the Agency's section 114 authority in one instance. The company providing the information has made a claim of confidentiality and, pursuant to USEPA regulations at 40 CFR part 2, subpart B, that information must, therefore, be treated for now as confidential pending a final determination by USEPA as to that claim.

E. Site-Specific Issues

1. Duo-Fast

Comment: Duo-Fast raised the following issues in its comments: (a) USEPA's proposed disapproval of the Illinois coating rule "power driven fastener coatings" is unsupported and contrary to the extensive State rulemaking record. If USEPA is to subject the "power driven fastener" industry to a more stringent regulation, it must have a complete basis in the record for determining that the proposed limitations constitute RACT. This would include an analysis that the limitations are economically and technically feasible for the sources in question. Reliance on general RACT guidance is not sufficient.

(b) USEPA has not demonstrated that the two other facilities which allegedly comply with more stringent miscellaneous metal parts or products (MMPP) rules are comparable to those at Duo-Fast.

(c) The minimum reduction in ozone precursor emissions which will result from the implementation of these rules

cannot be justified in a RACT proceeding.

(d) USEPA should consider other environmental impacts of these proposed rules. It would be environmentally counter-productive to impose a more stringent VOC regulation on Duo-Fast, if the only reasonable way of achieving it is substitution of methylene chloride, a proposed air toxic in Illinois, for non-exempt solvents.

Response: USEPA believes that the disapproval of the State rule, and subsequent proposal of the Federal rule for MMPP (with the absence of special limits for power driven fastener coating), was appropriate and its rationale well documented (e.g., see July 19, 1988, Region V TSD). In general, USEPA intends to rely on its CTCs to identify the control levels which it presumes to be RACT for various source categories. Because the CTCs have been prepared based on a careful and thorough evaluation of the capabilities and problems associated with the control approaches for a particular industry, USEPA believes that it may rely (and, in the past, has relied) solely on the CTCs to define RACT. Where a State finds the presumptive norm may not be applicable to an individual source, for economic or technological reasons, it may develop a site-specific RACT requirement. Such alternative RACT requirements would be acceptable if the State demonstrates first that the presumptive norm is not economically reasonable or technologically feasible and second that the alternative limit is the most stringent limit that is economically reasonable and technologically feasible.

For Duo-Fast, USEPA has relied on the CTC for MMPP as the general basis for disapproving Illinois' rule and for promulgating the applicable Federal limit. As further support for its actions, USEPA considered whether comparable companies were complying with the MMPP coating or equivalent limitations. USEPA policy states that "In determining RACT for an individual source or group of sources, the control agency, using the available guidance, should select the best available controls, deviating from those controls only where local conditions are such that they cannot be applied there and imposing even tougher controls where conditions allow." (see December 9, 1976 memorandum from Roger Strelow). USEPA believes that if control technology is available to a comparable facility and that no unique "local conditions" are identified which would prohibit this technology at the subject facility, then RACT for the two

companies is the same. The issue for Duo-Fast is whether these other companies are comparable and whether any "local conditions" would prohibit them from applying the same control technology present at the other facilities (assuming these facilities are meeting a more stringent limitation). Upon further review, USEPA has concluded that, for the purpose of defining RACT for Duo-Fast, these companies are comparable and that there are no unique local circumstances which would prohibit Duo-Fast from implementing the same technology being utilized at these facilities.

USEPA began by reviewing the State record in detail once again. USEPA especially examined the efforts made by Duo-Fast to attempt to comply with the miscellaneous metals parts and products coating limitations as described in the State record. USEPA's examination of the State record found that for the most part, it contained arguments by Duo-Fast which were conclusory statements not supported by any technical information provided by the company.

USEPA also examined the feasibility of both compliant coatings and adhesives, and add-on control for Duo-Fast. USEPA believes that compliant coatings are readily available based on the fact that neither of the comparable facilities studied were experiencing difficulty meeting the MMPP coating limitation for these types of coatings, and conversations with coating suppliers which indicated that compliant lubricity and withdrawal resistance coatings are available and in use for these purposes. On the other hand, contact with various coating suppliers indicates that compliant adhesives which meet Duo-Fast's specifications may not be readily available. In summary regarding compliant coatings and adhesives, USEPA rejects Duo-Fast's claim that compliant coatings which are used for lubricants and withdrawal resistance are not reasonably available. However, USEPA agrees that compliant adhesives suitable for use in the power driven fastener manufacturing industry are not available. Add-on controls (incineration) are used by the other two comparable facilities to comply with the applicable limitations for fastener adhesives. Therefore, add-on control is technologically feasible for the power driven fastener manufacturing process. Furthermore, it has not been demonstrated to USEPA that this technology is economically infeasible. Thus, USEPA maintains that it is economically reasonable for Duo-Fast to control emissions from their adhesive

operations through the use of add-on control.

To summarize, USEPA believes that RACT for Duo-Fast is identified by the proposed MMPP emission limitation. USEPA believes that compliant coatings are available for the lubricant and withdrawal resistance functions and that add-on control is reasonable to control the adhesive operations.

Finally, with respect to the expected emission reduction and the concern over other environmental impact, USEPA wishes to note that RACT is based on technological and economic considerations, not environmental impacts. It should be noted, however, that the estimated emissions from Duo-Fast's conventional and multiwire machines alone are approximately 190 tons per year. USEPA does not believe that it is unreasonable to require more RACT-level control on a source of this magnitude. In addition, USEPA does not believe that the only reasonable way of achieving the limitation is through the substitution of methylene chloride for non-exempt solvents. Rather, USEPA believes either compliant coatings or add-on controls are reasonably available as discussed above. Furthermore, Duo-Fast has not demonstrated that compliance through the use of methylene chloride, which USEPA would accept, is technologically infeasible or economically unreasonable. Therefore, USEPA believes that this is a moot point.

2. Stepan Company

Comment: Stepan Company, which owns and operates a plant manufacturing soaps and detergents and certain other materials, raised the following issues regarding its volatile organic liquid (VOL) storage operations in its comments:

(a) USEPA has overestimated VOC emissions from Stepan's Will County plant near Millsdale. Actual annual VOC emissions are one-third of those calculated by USEPA. Stepan submitted control efficiencies and emission data (maximum theoretical tons per year based on permits) showing that emissions at 21 of 38 points in the October 1989 FIP inventory were wrong.

(b) USEPA should consider the economic and technical difficulties presented by the proposed generic rule for currently exempt sources such as Stepan's. If storage tanks are covered under the generic rule, Stepan might have to control over 200 sources, the majority of which have emissions below 0.1 TPY but in the aggregate exceed the 5 TPY exemption level. A requirement for storage tanks to meet 81 percent control would make the RACT rule more

stringent than the storage tank NSPS, which includes volume and vapor pressure applicability cutoffs, and would make the Illinois rules the most stringent in the nation for storage tanks. It would be expensive, unsafe, and impractical to combine these emissions given their large spatial separation and small individual emissions and control them with a common control device.

Response: When compiling the October 1989 FIP emissions inventory, USEPA used the latest available data tape from IEPA. IEPA has revised their 1988 emissions inventory subsequent to submittal to USEPA and the revised IEPA data do include the control information presented by Stepan. These IEPA data are being used to revise the USEPA FIP inventory and result in a plantwide total of 182 tons (versus Stepan's estimate of 170 tons) in the annual emission estimate prior to application of rule effectiveness guidelines.

USEPA also acknowledges that the proposed generic rules, as written, would appear to require that: (1) Emissions from categories exempt from a number of specified regulations (including VOL storage) be counted toward the determination of whether a source qualifies as a major non-CTG source, and (2) these otherwise exempt categories be subject to the emission limitations contained in the generic rules. Although USEPA intended for emissions from these exempt categories to be included in the total emissions to determine if a source was a major non-CTG source, it did not intend that these categories be actually subject to the emission limitations of the generic rule. This is because if these sources are exempt from USEPA approved rules (primarily CTG rules), then they should also be exempt from the generic rules. Therefore, USEPA has changed the language in the final rule to clearly indicate that the emissions from these exempt categories should be counted in the determination of a 100 TPY non-CTG source, but that these exempt categories are not subject to the emission limitations in the generic rules. Consequently, the issues raised by the commentor regarding the infeasibility of controlling the storage tanks at Stepan are moot points.

3. General Motors Corporation, Electromotive Division (GM-EMD)

Comment: GM-EMD raised the following issues in its comments: (a) GM-EMD objected to USEPA's proposed disapproval of Illinois rule 215.204(m), which sets limits of 4.3 lb/gal and 4.8 lb/gal for locomotive topcoat

and final repair coating operations, respectively. USEPA has not provided any reliable data to support its proposed emission limitations for GM-EMD's locomotive topcoat and final repair operations of 3.5 lb/gal. USEPA's reliance on the CTG for the MMPP category is improper because the CTGs were developed as general guidance, and did not specifically consider the unique problems and requirements involved in coating a fully assembled locomotive. GM-EMD felt that the burden should be on USEPA to show that its proposed limits represent RACT for locomotive coating operations, and not on GM-EMD to show that the proposed limits are not RACT.

(b) GM-EMD requested that USEPA use its authority under Section 114 of the CAA to obtain up-to-date, comprehensive data on the locomotive coating operations at General Electric (GE) in Erie, Pennsylvania, and provide those data to GM-EMD in time to allow for review and comment.

(c) The reason for USEPA's reversal of its initial decision to approve the Illinois topcoat limit of 4.3 lb/gal applicable to GM-EMD (i.e., a 1988 SIP Call to the State of Pennsylvania identifying the State's topcoat limit of 4.3 lb/gal for locomotives and heavy-duty trucks as a deficiency) is improper. This is because: (i) A SIP Call is "an act of limited consequence preliminary to other events anticipated by the Act * * *. The notice only informs and requests. It does not 'order' * * * and * * * is not a final agency action * * *", (ii) the basis for the SIP Call is unclear, and (iii) the supposed intention of the State to revise its topcoat limit to 3.5 lb/gal for the GE locomotive plant cannot be taken as a demonstration that this limit is RACT for GM-EMD.

(d) As a result of extensive research and development to identify lower VOC content coatings since 1983, GM-EMD has reduced the VOC content of its coatings to meet the applicable State emission limitations. GM-EMD stated, however, that lower VOC coatings will create certain problems (i.e., unacceptable finish quality, excessive dry-to-tape times (for masking), unacceptably short "pot life", excessive film builds (leading to cracking), inability to produce an acceptable color match) and, thus, should not be required. These problems affect both production schedules and the quality of the finished product as delivered to the customer.

(e) The proposed 3.5 lb/gal limit would result in emission reductions of less than 3 TPY at current production levels (67 or fewer locomotives per year). Furthermore, the use of 3.5 lb/gal

coatings could actually result in a net environmental detriment because a greater amount of solids would have to be applied.

(f) USEPA should apply its 5 percent equivalency rule to GM-EMD's situation. GM-EMD estimates that application of the Illinois topcoat and final repair rules would cause total emissions for the MMPP category to depart from those allowed under the CTG (3.5 lb/gal emission limit) by 0.77 percent, well under USEPA's guideline for judging which requirements "deviate imperceptibly from the recommended presumptive norm."

(g) GM-EMD manufactures a rubberized insulating tape using a fiberglass fabric substrate. USEPA's proposed rules would revise the definition of fabric coating to include such impregnation operations, making this operation potentially subject to a 2.9 lb/gal emission limit. GM-EMD believes that these operations should be regulated as non-CTG sources subject to § 52.741(x), with a limit of 6.0 lb/gal. A quotation for a carbon adsorption system indicates that the annualized cost of such control would be unreasonable.

(h) GM-EMD has eight separate coating lines that apply electrical insulating varnishes to various components of alternators and traction motors. These operations do not properly fit under the Magnet Wire or MMPP category. GM-EMD believes these operations should be regulated as non-CTG sources subject to § 52.741(x), with a limit of 5.2 lb/gal. Quotes for add-on controls on these coating lines indicate that the annualized cost of such control would be unreasonable.

(i) The applicability of Illinois rule 215.204(m) was limited to the coating of assembled locomotives. USEPA's proposal appears to alter the scope of this rule to encompass all operations at the GM-EMD facility. As a result of this change, a number of non-locomotive non-CTG coating operations may now inadvertently be subject to a limit of 3.0 lb/gal.

Response: USEPA believes that the disapproval of the State rule, and subsequent proposal of the Federal rule for diesel-electric locomotive coating was appropriate and its rationale well documented. In general, USEPA intends to rely on its CTGs to identify the control levels which it presumes to be RACT for various source categories. Because the CTGs have been prepared based on a careful and thorough evaluation of the capabilities and problems associated with the control approaches for a particular industry, USEPA believes that it may rely (and, in

the past, has relied) solely on the CTGs to define presumptive RACT. Where a State finds the presumptive norm may not be applicable to an individual source, for economic or technological reasons, it may develop a site-specific RACT requirement. Such alternative RACT requirements would be acceptable if the State demonstrates first that the presumptive norm is not economically reasonable or technologically feasible and second that the alternative limit is the most stringent limit that is economically reasonable and technologically feasible.

For GM-EMD, USEPA has relied on the CTG for MMPP (which specifically covers facilities that manufacture locomotives and, as such, are included within Major Group 37 of the Standard Industrial Classification Code) as the general basis for disapproving Illinois' rule and for promulgating the applicable Federal limit.¹⁹ As further support for its actions, USEPA considered whether comparable companies were complying with the MMPP coating or equivalent limitations. USEPA policy states that "In determining RACT for an individual source or group of sources, the control agency, using the available guidance, should select the best available controls, deviating from those controls only when local conditions are such that they cannot be applied there and imposing even tougher controls where conditions allow." USEPA believes that if control technology is available to comparable facilities and that no unique "local conditions" are identified which would prohibit this technology at the subject facility, then RACT for these sources is the same. At issue for GM-EMD is whether the only other locomotive coating plant in the United States (i.e., GE) is comparable and whether any "local conditions" would prohibit GM-EMD from applying the same control technology present at GE (assuming this facility is meeting a more stringent limitation).

Upon further review, USEPA has concluded that, for the purpose of defining RACT for GM-EMD, the GE plant is comparable and that there are no unique local circumstances which

¹⁹ In reviewing State plans and promulgating Federal plans, USEPA is not obligated to evaluate various alternative rules for equivalency using its 5 percent rule. The basic purpose of the 5 percent rule is to provide a mechanism for allowing States flexibility in developing their regulations. Furthermore, the commentors use of the 5 percent rule here is incorrect. The 5 percent rule can only be used to justify the selection of differing cutpoints for regulatory coverage within a CTG category. It cannot be used, as attempted by the commentor, to justify a relaxed emission limitation for an individual source.

would prohibit GM-EMD from implementing the same technology being utilized at the GE plant.

Note: GM-EMD has not demonstrated that the criteria its topcoat and final repair coatings must meet are unique or exceptional with respect to GE's operations.

This determination is based primarily on information supplied by two air pollution control offices (Region III and the State of Pennsylvania) and by GE. Both Region III and Pennsylvania agency personnel have affirmed GE's ability to perform its locomotive coating operations using coatings at or below the 3.5 lb/gal limit. As a result of this conclusion, the State of Pennsylvania has proposed to lower the VOC emission limit for locomotive and heavy-duty truck topcoats from 4.3 to 3.5 lb/gal (minus water). The information supplied by GE demonstrates that topcoat paints applied to final assembled locomotives and repair coats applied for the final repair of assembled locomotives are 3.5 lb/gal or less.

Note: The GE information was supplied pursuant to a section 114 letter from USEPA. GE has made a claim of confidentiality and, pursuant to USEPA regulations at 40 CFR part 2, subpart B, that information must, therefore, be treated as confidential for now (and, thus, cannot be provided to GM-EMD for review and comment) pending a final determination by USEPA as to that claim.

USEPA's proposed action also refers to the May 26, 1988, Pennsylvania SIP Call letter and June 14, 1988, follow-up letter, which noted that the State's regulation allowed the use of 4.3 lb/gal coatings for topcoating of heavy-duty trucks, whereas the applicable CTG specified a limit for this operation of 3.5 lb/gal. This deficiency was also applicable to locomotive topcoating operations. Although USEPA does not dispute the commenter's characterizations of a SIP Call, it should be noted that USEPA is not relying on this SIP Call to set RACT limits for GM-EMD, but instead refers to the SIP Call only as evidence that USEPA is consistently concluding that the CTG limit is RACT for locomotive coating operations, like GM-EMD's locomotive topcoating and final repair coating operations. Whether or not Pennsylvania changes its rules pursuant to this SIP Call, both Pennsylvania and GE's data support the conclusion that 3.5 lb/gal is RACT for GM-EMD.

With respect to the technical problems cited by the commenter, USEPA believes that the dry-to-tape time and pot life problems can be minimized through relatively minor scheduling adjustments, the short pot life problem can be counteracted with

smaller batches of coating mixed in several pots in a staggered schedule, and a greater number of batches to coat each locomotive. The other problems could be due to a number of factors other than the VOC content of the coatings. As discussed in USEPA's April 7, 1989, Technical Support Document, the data submitted by GM-EMD does not support its claim that increased film thickness leads to film cracking. It should be noted that GE's ability to achieve satisfactory finish quality and durability using high solids topcoat and final repair coatings indicates that these problems can be overcome.

USEPA does not agree that compliance with the proposed limits will cause the application of greater film thicknesses, thereby resulting in a net environmental detriment. These Federal rules are primarily directed towards regulating the level of control technology and not production levels. Furthermore, it has not been demonstrated that the Federal rules will necessitate GM-EMD to apply coatings with greater film thicknesses.

With respect to the operations for rubberized insulating tape using a fiberglass fabric substrate and the eight separate coating lines that apply electrical insulating varnishes to various components of alternators and traction motors, insufficient information was provided by the commenter to support the adoption of their alternative emission limits. Consequently, the Federal rule as proposed will apply to these sources. GM-EMD may submit a request for a site-specific SIP revision for these sources complete with technological and economic data to support its claims that some alternative limits would be RACT for these sources.

Finally, the proposed Federal rule was intended to apply to locomotive coating operations, and not to all of the other coating operations that are carried out at GM-EMD. USEPA has retitled § 52.741(e)(1)(i)(M) to refer solely to the locomotive coating operations to clarify this point. It should be noted, however, that other metal (non-locomotive) coating operations will be subject to the MMPP coating limitations.

4. Allsteel, Inc.

Comment: Allsteel raised the following issues in its comments: (a) USEPA has no authority at this time to challenge the internal offset in the State operating permit (to require that offsets must be approved as a SIP revision) because USEPA approved the State internal offset rule in 1982.

(b) USEPA's proposal to allow offsets within coating lines is consistent with cross-line averaging which USEPA has

cited as a deficiency. IEPA submitted the offset to USEPA for review as a SIP revision in November 1987, and this submittal has not been acted upon.

(c) Allsteel pointed out that the company had obtained an adjusted standard for its adhesive curing ovens from the State in PCB AS88-3, and this record was submitted to USEPA for approval as a SIP revision. USEPA should act on that submission.

(d) The new proposed definition of coating includes adhesives, yet adhesives have previously been regulated under the State's generic rule. Allsteel believes that this change may have been inadvertent, and requested an amendment to the definition to exclude operations specifically regulated as miscellaneous fabricated product manufacturing.

(e) The company has demonstrated to the State that alternative adhesives are not available and that other controls would exceed the requirements of RACT due to difficulty of installation, safety concerns, and very high costs. USEPA may not simply reject these showings and impose the generic rule limits on Allsteel without some showing that those limits are RACT in this case. The data in the FIP record do not support a conclusion that sources previously exempted because of excessive control costs should now be regulated.

Response: USEPA is still considering the need to establish site-specific emission limitations and standards, as alternative to the Federal Generic Rule, for Allsteel in response to their public comments. The highly technical, source-specific nature of these comments (e.g., the feasibility of compliant adhesives for metal furniture manufacturing operations such as Allsteel has not yet been established) will take additional time for USEPA to review and respond to. The need to promulgate Federal regulations under the tight timeframe ordered by the Court has prevented USEPA from being able to consider fully the merits of the proposed, alternative site-specific limits. Although for environmental and equity reasons, USEPA believes that it is necessary to establish emission limitations and standards for all sources at this time, USEPA will continue to consider the need to adopt as Federal measures site-specific limits for Allsteel. As such, USEPA is deferring the effective date of these Federal rules for Allsteel until January 1, 1991, in order to allow additional time for its consideration of this matter. If determined to be appropriate, then USEPA will propose revised Federal limits at a later date.

In response to Allsteel's comments concerning the internal offset issue and the appropriate regulations for adhesives, USEPA offers the following responses. First, as discussed in more detail in section D above, internal offsets must be approved as a SIP revision, until such time as Illinois has an approved generic bubble rule, to ensure that cross-line averages satisfy USEPA's ETPS. Although USEPA did approve a prior version of the State's internal offset rule, USEPA subsequently identified this rule as a deficiency in its June 13, 1988, SIP Call follow-up letter to the State. Second, USEPA agrees that metal furniture adhesives are more appropriately considered as non-CTG coatings than as metal furniture coatings, based upon the regulatory history of this source category, and has modified the definition of metal furniture coating accordingly.

Finally, it should be noted that during its review of Allsteel's comments, USEPA discovered that the VOC emissions data cited by Allsteel differed from the data in USEPA's inventory. USEPA obtained the most current emissions data for Allsteel from IEPA and revised the FIP inventory accordingly. The revised plantwide VOC emission total for Allsteel is now approximately 204 tons per year. USEPA will rely on these revised emissions in its evaluation of the need for and, if appropriate, establishment of a site-specific Federal limitation for Allsteel.

5. Riverside Laboratories

Comment: Riverside raised the following issues in its comments:

(a) No support has been provided for the change in the definition of paper coating to include saturation operations. The process used by Riverside is unique and is not described in any of USEPA's CTGs or in the technical support documents. There is no technical basis in the record for the proposed change to include Riverside's saturation operation within the paper coating definition.

(b) It is not clear from the TSD and other data in the docket that USEPA is trying to regulate Riverside's saturation operations. Regulation Riverside as a papercoater is contrary to rulings by the IPCB and the State and Federal courts.

(c) Due to the technical differences between coating and saturation processes, the VOM control technologies that apply to paper coating are infeasible for this type of saturation operations. There are additional difficulties in controlling Riverside's emissions because they contain silicone.

(d) There is no basis for regulating Riverside under the paper coating limitation rather than the existing

Illinois Generic Rule. The installation of the water-based technology and the corresponding decrease in the rate of VOM emissions from the plant supports a determination that Riverside should not be regulated under the 2.9 lbs./gal. limitation. Indeed, a greater emission reduction in VOM emissions from the plant may be realized over the next five years through the use of water-based production and the market conditions already occurring. Thus, Riverside should continue to be subject to the 3.5 lbs./gal. limitation of the Generic Rule for the next five years.

(e) USEPA has overestimated the VOC emissions from Riverside. Actual annual emissions are approximately one-quarter of the value listed in USEPA's emissions inventory.

(f) It is unfair and unreasonable to require a small business such as Riverside, which has just made a substantial investment in order to reduce its rate of emissions, to place add-on controls on production lines which may be shut down in the near future.

Response: The Agency considers the change in the definition of paper coating, to now explicitly include "saturation" operations, to be a clarification; that is, the change was made to clarify what was covered by the original definition, not to expand the coverage of the definition. Because it is a clarification, the Agency relied on conclusions that were in turn based on previous investigations or determinations.

The original document affecting paper coaters is the CTG. Although the CTG does not mention saturation operations as one of the methods used to apply coating to paper, this omission was not intentional. The relative infrequency of this type of coating application in the paper coating industry was the most likely reason for its not being mentioned. Saturation operations of paper coaters were identified after the CTG was written and during the development of the Pressure Sensitive Tapes and Labels (PST&L) NSPS.

The paper coating CTG explicitly covered, among others, pressure sensitive tapes and labels (PST&L). During the technical development phase of the PST&L NSPS, three types of application techniques were identified. One of the three was the use of a dip tank to saturate the web. Saturation operations were found to be of similar design to other types of coating processes, the only basic difference being the use of a dip tank to apply the coating. The PST&L NSPS recognized explicitly saturation processes as one of the application methods in use in the

PST&L industry, a subcategory of paper coaters.

USEPA intends, by this definitional modification, to subject Riverside's facility to the paper coating rule. This modification is intended to correct a perceived ambiguity in the 1980 regulation. On January 5, 1989, the IPCB held that Riverside is not a paper coater under the 1980 regulation. USEPA believes that the IPCB's decision is in direct conflict with the facts regarding what constitutes paper coating and clearly demonstrates the need to clarify the paper coating definition. Today's rulemaking is, therefore, intended to ensure the proper interpretation of the "paper coating" definition.

USEPA disagrees that this modification is contrary to the IPCB and State and Federal court rulings. Those tribunals merely interpreted the 1980 definition. They did not conclude that an impregnator was incapable of complying with the paper coating emission limitation. Under the clarified definition, these tribunals would find that Riverside is subject to the rule. Moreover, the Federal courts have never reached the issue of whether Riverside is a paper coater. Those courts merely deferred to the State's interpretation of the 1980 regulation. Thus, today's rulemaking is not contrary to the previous rulings.

The Agency has carefully considered each of the four control options identified by the commenter. The Agency agrees that coating solution reformulation, catalytic incinerators, and carbon adsorbers are not at this time reasonably available control technology for Riverside's processes. (USEPA, however, encourages Riverside and other paper coaters to pursue reformulation as a pollution prevention technique.)

In contrast to the above three control techniques, thermal incinerators are a proven control technology notwithstanding Riverside's claims to the contrary. Thermal incinerators have been used on operations that emit silicone, in some instances in amounts much greater than might be expected at Riverside. While it is true that silicone will foul heat exchanger surfaces, this is more of an inconvenience than proof of technological infeasibility or even uncertainty.

Having determined that thermal incinerators are technically feasible, USEPA then evaluated the cost of using thermal incinerators. USEPA performed their own cost estimate based upon recuperative and regenerative thermal incinerators for facilities similar to Riverside which have installed such

controls. These cost estimates do not indicate that the controls are not economically feasible.

In conclusion, the Agency disagrees that there is no control technology that is technically feasible and Riverside has not presented sufficient information to justify a finding of economic infeasibility.

Installation of water-based technology does not necessarily support a determination that the proposed limit should be waived. All paper coating operations are subject to the same limit. Riverside may choose to meet that limit using water-based technology or add-on control techniques. Although their compliance practice may result in greater emission reductions than required by the rule, this should not dictate the applicable emission limit. The Agency has determined that paper coating regulations should cover saturation operations. Thus, Riverside's saturation operations are covered by the paper coating limitation.

The commentor's claim that the amount of VOC emissions is expected to decline by perhaps as much as 80 percent over the next five years is based on a projection that market-trends would lead to a phase-down in polyester's (solvent-based) share of the laminated products market over the next five years and an increase in melamine's (water-based) share of that market. This projection may or may not occur. In fact, market conditions could change such that Riverside does not discontinue their solvent-based process lines, as acknowledged by Riverside. In any event, this is not a factor in determining whether Riverside is a paper coater and whether control technologies are technically feasible.

With respect to the emissions inventory for Riverside, USEPA wishes to note that the October 1989 version of the FIP emissions inventory was based on the latest available data tape from IEPA. IEPA has since revised their 1988 emissions inventory. These IEPA data are being used to revise the USEPA FIP inventory and result in a plantwide total of 312 tons for Riverside in the annual emission estimate prior to application of rule effectiveness guidelines.

Finally, USEPA also is concerned about the economic impacts that controls may have on small businesses. In order to evaluate individual cases, the Agency must have sufficient data on each business seeking to be exempted based on "unreasonable" economic impacts. The commentor has not provided the Agency with such information to make this determination, but is free to do so in the future in connection with a site-specific SIP

revision request. Furthermore, as stated in an earlier response, the possibility that production lines "may be shut down in the near future" is an insufficient basis to conclude it is unfair to require add-on controls at this time.

6. 3M

Comment: 3M raised two issues in its comments. First, the FIP inventory for 3M's Bedford Park plant is more than twice the actual emissions. Total emissions from coating lines at the plant during calendar years 1988 and 1989 were submitted. Second, 3M asked that certain perfluorocarbon compounds be treated as exempt from regulation under the CAA, as part of USEPA's rulemaking for the Chicago area.

Response: USEPA agrees that the information provided by 3M suggests that the estimate of plantwide emissions for the Bedford Park plant in USEPA's inventory is overstated. While a more typical summer daily emission rate appears to be on the order of 50,000–60,000 pounds (rather than about 112,000 pounds, as contained in the current USEPA and IEPA inventory), USEPA cannot revise its inventory yet for the following reasons: (a) USEPA's inventory is process source-specific and 3M has only provided plantwide emissions, not process source-specific, and (b) the basis for 3M's data is unclear (e.g., how was percent "EVAP" determined, how was the daily average lb/gal calculated, what is the daily operating rate). Because this rulemaking does not depend on the exact magnitude of 3M's emissions, USEPA does not believe that it is necessary to resolve these issues at this time. As USEPA and the States move forward with their planning efforts, per the Settlement Agreement and the Memorandum of Agreement, the establishment of an accurate, representative emissions inventory is critical. USEPA will continue to work with Illinois and 3M to establish an accurate emission inventory for 3M, and will require emission reductions with reference to that level.

With respect to 3M's request concerning exempt compounds, USEPA's Office of Air Quality Planning and Standards has received and is currently reviewing 3M's petition. The petition presents sufficient information to warrant USEPA's further consideration. USEPA is not prepared now, however, to determine whether to grant the petition. USEPA's decision whether the compounds at issue should be exempted from the definition of VOM, for purposes of SIP regulations and other CAA requirements, depends on several factors. USEPA must decide

not only whether the compounds are reactive at all, but also whether their rate of reactivity is sufficiently slow, and the degree of reactivity sufficiently small, to warrant exemption from regulation for purposes of attaining the ozone NAAQS. This will entail the exercise of scientific and policy judgment.

USEPA fully intends to make these judgments, and act on 3M's petition, within the next year. Because the petition merits further consideration and may ultimately be granted, USEPA is extending, to one year from the date USEPA acts on 3M's petition, the date by which 3M's Bedford Park facility must comply with today's rules, to the extent the rules apply by virtue of emissions of those compounds.²⁰ USEPA has modified the definition of volatile organic material and volatile organic compound to reflect this extension of the effective date of the Federal regulations for these compounds. To the extent the rules would apply even excluding consideration of emissions of those compounds, the compliance date for 3M's Bedford Park facility would remain July 1, 1991.

In this way, 3M's Bedford Park facility will be able to put off compliance, to the extent emissions of those compounds make it subject to the rules, until USEPA determines whether the Bedford Park facility will even need to comply with respect to those compounds. Should USEPA not act on 3M's petition within one year, it will adjust the compliance date for the Bedford Park facility further to account for that delay.

8. Abbott Laboratories

Comment: Abbott raised several concerns at the public hearing and in its initial written comments on the proposed Federal rule for pharmaceutical manufacturing. Abbott subsequently submitted a joint IEPA-Abbott proposal being introduced into the State rulemaking process and urged USEPA to modify the Federal rules consistent with the joint IEPA-Abbott proposal.

Note: IEPA also submitted a copy of the joint IEPA-Abbott proposal and expressed its desire that the final Federal rule reflect this proposal.

A number of concerns raised by Abbott at the public hearing and in its initial written comments are now moot in light of Abbott's supplemental comments,

²⁰ In the interim, these perfluorocarbon classes will be treated as water for the purposes of calculating the "less water" part of the coating or ink composition.

and, thus, need not be addressed here. The remaining significant issues raised by Abbott are as follows:

(a) Abbott objected to the proposed exemption levels for the air suspension coater/dryer and tunnel dryers and requested that these levels be revised. Abbott claimed that USEPA failed to justify its proposed levels for these sources.

(b) Pharmaceutical manufacturing should be listed in the generic rules as one of the exempt sources for these non-CTG categories.

(c) Abbott "questioned" USEPA's emissions inventory, but did not cite any specific concerns.

(d) Abbott expressed confusion in distinguishing between references to the letter "(l)" and the number "(1)" in the pharmaceutical manufacturing rule.

Response: USEPA has carefully evaluated the joint IEPA-Abbott proposal, which is based on the proposed Federal pharmaceutical manufacturing rule, and has concluded that it is approvable. The joint proposal is substantially similar to the proposed Federal rule. USEPA believes that the changes, as described below, are either responsive to the commentor's concerns or serve to clarify (and not to modify the intent of) the proposed rule. Consequently, USEPA believes that making these changes in the promulgated rule is appropriate (*i.e.*, reproposal is unnecessary).

The revisions being made to the proposed Federal rule for pharmaceutical manufacturing include relabeling this rule as paragraph (m) (rather than paragraph (l)), adding several definitions in paragraph (a) relevant to the pharmaceutical manufacturing rule, modifying the exemption levels for tunnel dryers and the air suspension coater/dryer, and modifying some of the recordkeeping requirements, including the addition of a provision addressing how compliance with the tons-per-year and pounds-per-day applicability criteria will be determined. USEPA acknowledges that the technical support for the proposed exemption levels was incomplete and has determined that the revised levels are appropriate based on the statement of reasons provided Abbott. The inclusion of provisions dealing with the calculation of annual emissions for the purposes of determining applicability is an important clarification, given that the test methods identified in the proposed rule only provide an estimate of short-term emissions. In addition, the list of exempt source categories in the generic rule for other emission sources at § 52.741(x) has been clarified to refer to "pharmaceutical manufacturing" and to

cover a number of the other generic rules at § 52.741 (u), (v), (w), and (x).

Finally, with respect to the emissions inventory for Abbott, USEPA wishes to note that the October 1989 version of the FIP emissions inventory was based on the latest available data tape from IEPA. IEPA has since revised their 1988 emissions inventory. These IEPA data are being used to revise the USEPA FIP inventory and result in a plantwide total of 306 tons for Abbott in the annual emission estimate prior to application of rule effectiveness guidelines.

8. Allied Tube and Conduit

Comment: Allied noted that it has an existing State operating permit which allows for the use of cross-line averaging and asked USEPA to either adopt a site-specific FIP limitation for Allied, or recognize and grandfather Allied's existing operating permit, as part of the SIP.

Response: As noted above, a site-specific SIP or FIP revision is required for any daily-weighted average that includes coatings subject to different emission limits and coatings applied on different lines (*i.e.*, cross-line averaging) to ensure that the requirements of the ETPS are satisfied. Allied's comments and supporting information were reviewed and were not found to support an alternative RACT emission limitation. This information does not demonstrate that Allied's proposed limits are the most stringent limits that are technologically and economically feasible. In addition, this information does not contain an analysis indicating that Allied's operating permit includes measures requiring compliance with the provisions of the ETPS.

There is no basis for grandfathering a permit limit, based upon a daily-weighted average that is required to comply with the requirements in the ETPS, and that had not previously been submitted as a SIP revision. Allied must either present and support an alternative RACT limit through the State, based upon considerations of economic and technological feasibility, or it must propose a bubble that satisfies USEPA's ETPS. An alternative RACT limitation or bubble must be approved as part of the implementation plan.

Finally, it should be noted that Allied's State operating permit is based upon compliance with Illinois Rule 215.207, which allows compliance by the use of internal offsets. This rule is no longer part of the implementation plan with the promulgation of these Federal rules (*i.e.*, the Federal coating rule supercedes the State coating rule, which included Rule 215.207, in the implementation plan). Thus, sources

may no longer comply through the use of internal offsets, absent approval of a site-specific SIP revision allowing such compliance.

9. Dietzgen

Comment: Dietzgen noted that it had an approved alternative emission limitation under the existing SIP rule. Under a 1988 Consent Decree, the company installed a carbon absorption system on two transparentizing lines. Dietzgen asked USEPA to either clarify that the alternative emission limitation demonstration provided by Dietzgen pursuant to the Consent Order would be acceptable under the proposed rules, grandfather the alternative emission limitation demonstration, or establish in the final FIP a site-specific exemption for the two transparentizing lines.

Response: It appears, based on the limited information regarding Dietzgen provided by the commentor, that the alternative emission limitation calculated by procedures contained in the Consent Order will be essentially equivalent to that calculated under § 52.741 (e)(2). Although there are several minor differences, none of these are expected to have a significant impact on the actual alternative limitation. Because of differences in the compliance methods (measuring capture efficiency), however, the demonstration of compliance by alternative emission limitations as contained in Dietzgen's Consent Order is not acceptable under the new Federal rules. Dietzgen, along with all other subject facilities, must provide USEPA with a demonstration of compliance by July 1, 1991. Therefore, although the previous alternative limitation demonstration provided by Dietzgen pursuant to the Consent Order would not be acceptable under the Federal rules, Dietzgen has until July 1, 1991, to submit and obtain USEPA approval of an adequate demonstration. In addition, USEPA does not feel it is appropriate to grandfather Dietzgen's alternative emission limitation from the new alternative emission limitation rules because all other facilities in the same situation will have to submit new demonstrations and there is no reason to establish a site-specific exemption for the two transparentizing line because the carbon adsorber which controls emissions from these lines appears to be adequate to comply with Federal rules.

10. Viskase Corporation

Comment: Viskase raised the following issues in its comments:

(a) The proposed generic rule in the FIP would apply an 81 percent control requirement to emissions at Viskase's

Bedford Park facility. There is no information in the record that considers the technical feasibility or economic reasonableness of such controls.

(b) Viskase referred to a pending SIP revision before the IPCB which concludes that add-on controls for carbon disulfide emissions from the company's viscose casing manufacturing process are not RACT. RACT, as determined by the IPCB, consists of reductions of carbon disulfide emissions by 33 percent from the 1988 permitted emissions level of 1476 TPY, and a seasonal reduction of 45 percent during the peak ozone season months. These reductions would be achieved through a combination of process changes, controls on minor emission sources, and production scheduling and emission source shutdowns.

(c) A recent BACT analysis performed for Viskase's only domestic competitor, also located in Illinois, demonstrated that best control technology for this company's new casing line would not consist of add-on controls. This conclusion was based on a finding that the technology was unproven and too expensive on a cost per ton of control basis to represent BACT. Because RACT is on the lowest rung of the control ladder, no control as BACT means no control as RACT. In another control technology evaluation for a related viscose process (NSPS for new rayon manufacturing plants), USEPA found that thermal incineration control would be "exorbitantly costly" for controlling carbon disulfide emissions. On the basis of this finding, USEPA decided not to proceed with the development of a rayon NSPS.

(d) Thermal incineration, the only VOC control technology that is potentially feasible for controlling carbon disulfide emissions at Viskase, is not economically reasonable. Viskase stated that the costs for incineration are of such magnitude that they could not be borne by the Bedford Park facility and, rather than incur such excessive capital and operating costs, Viskase would close the plant and move production to other plants located outside the United States.

(e) Many of the reasons cited by USEPA for exempting certain source categories from the Federal generic rule are also applicable to the viscose cellulose casing process.

(f) Calculation of the cost effectiveness of emission controls at full production grossly underestimates the actual cost effectiveness for a typical production year.

(g) Viskase believes that USEPA should either act to approve the RACT determination now pending, which

would constitute an alternative plan that has been approved by USEPA as a SIP or FIP revision, or delete the viscose cellulose casing process from the scope of the Federal generic rule.

Response: USEPA is still considering the need to establish site-specific emission limitations and standards, as alternative to the Federal Generic Rule, for Viskase in response to their public comments. The highly technical, source-specific nature of these comments (e.g., there is only one other company which manufactures cellulose food casings besides Viskase in the United States) will take additional time for USEPA to review and respond to. The need to promulgate Federal regulations under the tight timeframe ordered by the Court has prevented USEPA from being able to consider fully the merits of the proposed, alternative site-specific limits. Although for environmental and equity reasons, USEPA believes that it is necessary to establish emission limitations and standards for all sources at this time, USEPA will continue to consider the need to adopt as Federal measures site-specific limits for Viskase. As such, USEPA is deferring the effective date of these Federal rules for Viskase until January 1, 1991, in order to allow additional time for its consideration of this matter. Among other factors, USEPA will consider whether Viskase has demonstrated, consistent with USEPA's "Analytical Methods Manual", its claim that add-on controls are not affordable. If determined to be appropriate, then USEPA will propose revised Federal limits at a later date.

11. Outboard Marine Corporation

Comment: Outboard Marine Corporation (OMC) stated that USEPA has improperly deleted the exemption for OMC, which was previously proposed for approval, without providing any justification.

Response: USEPA's rationale was provided in the NPR and the docket (see Blue Book and the Region V's Response to Comments document). In brief, the State's proposed exemption level of 35 tons per year is not consistent with the exemption level in USEPA's RACT guidance for coating operations (i.e., 10 tons per year based on maximum theoretical emissions before add-on controls, 15 pounds per day based on actual emissions before add-on controls, or 3 pounds per hour based on actual emissions before add-on controls) and the State has not provided a 5 percent analysis to demonstrate that there is no significant difference between its exemption level and the exemption level

in USEPA's RACT guidance.²¹ The commenter provided no information to support its objection, but is free to do so in the future in connection with a site-specific SIP revision request. Consequently, USEPA will be taking final action to disapprove the State's coating rule for marine propulsion equipment.

III. Action on State Rules

Illinois has submitted several revisions to its ozone SIP in USEPA in recent years. The revisions have been prompted either by Federal guidance and notices (to correct deficiencies in existing federally approved rules or to provide rules for certain source categories for which no federally approved rule exists), or by industry petitions to the State for alternative emission limitations. A summary of these submittals and USEPA's final rulemaking actions is provided below. A more detailed explanation of the State rules and more detailed justification for USEPA's action on them are contained in the Technical Support Documents and in the information contained in the file for this rulemaking.

A. Final Disapproval

1. High Gloss Catalyzed Coatings (Subpart F, Section 215.204(c))

On March 28, 1988, Illinois submitted a revised surface coating rule which relaxes the existing federally approved SIP emission limitations from 2.9 to 3.5 pounds per gallon for "specialty high gloss catalyzed coatings". The rule currently applies to Classic Finishing Company in Chicago. The State has not demonstrated that the revised limit is consistent with RACT. No public comments were received on USEPA's proposed action on this rule. Consequently, USEPA is disapproving the revised rule in final.

2. Marine Propulsion Equipment (Subpart F, Section 215.206(b))

On June 25, 1987, Illinois submitted a revised surface coating rule which

²¹ As noted in the NPR, OMC previously provided a demonstration which purports that it is infeasible for it to comply with the emission limitations for MMPP. Because USEPA previously proposed to approve the State rule based on this demonstration, USEPA believes that there is merit to OMC's claim that compliance with the applicable MMPP limitation in this case may not be reasonable and encourages the State to consider a site-specific emission limitation and standard for the OMC Waukegan facility. The State should submit adequate technical and economic data to support the claim that any alternative limitation is RACT for OMC, and that such alternative RACT limit will not adversely effect the State's efforts to demonstrate attainment of the ozone NAAQS in the Chicago area.

deleted the exemption for the exterior of airplanes and marine propulsion equipment in the definition of "miscellaneous metal parts and products". The revised rule also provides an exemption for the Outboard Marine Corporation's (OMC) Waukegan facility so long as its VOC emissions from miscellaneous metal coating operations do not exceed 35 tons per year. As noted above, USEPA disapproved the revised rule because the State's exemption level is not consistent with USEPA's RACT guidance and the State did not provide a 5 percent analysis to support its alternative exemption level. One commenter objected to USEPA's proposed action on this rule, but did not provide any information that would justify approving the existing State rule. Therefore, USEPA is disapproving the State rule in final.

3. Power Driven Fastener Coating (Subpart F, Section 215.204(j)(4))

On March 28, 1988, Illinois submitted a revised surface coating rule which treats exempt solvents the same as water (*i.e.*, emission limits have been changed from pounds VOC per gallon of coating less water, to pounds VOC per gallon less water and exempt solvents) and relaxes the emission limitations for "power driven fastener coatings" from the emission limitations in the otherwise applicable miscellaneous metal parts and products rule. The rule currently applies only to Duo-Fast Corporation in Franklin Park. Although the treatment of exempt solvents is acceptable, the State has not demonstrated that the revised limits are consistent with RACT. One set of public comments was received from Duo-Fast on USEPA's proposed action on this rule. Based on its review of these comments (see "Duo-Fast" in section II.), USEPA maintains that the existing State rule is not consistent with RACT and, therefore, cannot be approved. Consequently, USEPA is disapproving the State rule in final.

4. Generic Rule (Subparts AA, I, PP, QQ, RR)

On July 21, 1988, Illinois submitted a "generic" rule which establishes control requirements for major sources not currently subject to CTG regulations. The State rule is not acceptable because the method of determining what constitutes a major non-CTG source is not consistent with USEPA RACT guidance. For example, the State rule applies only to sources which emit 100 tons or more per year of VOC if no air pollution control equipment were used. According to the RACT guidance, the emissions levels must be based on the

maximum theoretical emissions (design capacity or maximum production), not actual emissions, before add-on controls. Several public comments were received on USEPA's proposed action on this rule. Based on its review of these comments (see section II), USEPA still believes that the existing State rule is not consistent with RACT and, therefore, cannot be approved. Consequently, USEPA is disapproving the State rule in final.

5. Synthesized and non-CTG Pharmaceutical Manufacturing (Subpart A, Section 215.102 and Subpart T)

On May 26, 1988, Illinois submitted a rule which establishes control requirements for synthesized and non-CTG pharmaceutical manufacturing. The rule currently applies only to Abbott Laboratories in North Chicago and Abbott Park. The rule is not acceptable because the method for determining the vapor pressure of mixtures is both sufficiently ambiguous so as to be unenforceable and allows an interpretation that would include the contribution of water vapor (which is contrary to USEPA's RACT guidance). In addition, there are other unenforceable provisions within subpart T. One set of public comments was received from Abbott on USEPA's proposed action on this rule. Based on its review of these comments (see "Abbott" in section II.), USEPA still believes that the existing State rule is not consistent with RACT and, therefore, cannot be approved. Consequently, USEPA is disapproving the State rule in final.

6. Printing and Publishing (Subpart H, Section 215.245)

On March 3, 1988, Illinois submitted a revised rule for printing and publishing (graphic arts) for the nonattainment counties. The revised rule lowers the exemption level for rotogravure and flexographic printing presses to 100 tons per year when averaged over the preceding 3 calendar years and requires packaging rotogravure printing presses (wishing to comply by installing add-on control equipment) to have a combined capture and control system reduction of at least 65 percent. For the reasons discussed previously, 3-year averaging is not consistent with the RACT requirements. In addition, applicability must be based on maximum theoretical, not actual, emissions (in the absence of add-on control equipment). One set of public comments was received on USEPA's proposed action on this rule. Based on its review of these comments (see section II), USEPA still believes that the existing State rule is not

consistent with RACT and, therefore, cannot be approved. Consequently, USEPA is disapproving the State rule in final.

7. Internal Offset Rule (Subpart F, Section 215.207)

On March 28, 1988, Illinois submitted a revised internal offset rule which attempts to correct the deficiencies cited by USEPA in its July 11, 1985, proposed disapproval of the rule. In the revised rule, allowable emissions are now determined on a solids basis and the formula for determining actual and allowable emissions has been corrected. The revised rule still suffers from two problems: (1) The methods or procedures used to determine emissions are contained only in operating permits which are not federally enforceable and have an expiration date (*i.e.*, it cannot be assured that the methods or procedures will continue to be used after the operating permit expires), and (2) the rule does not explicitly ensure that the emission plans for internal offsets must meet the principles of USEPA's ETPS and must be submitted to USEPA for approval as a SIP revision. Several sets of public comments were received on USEPA's proposed action on this rule. Based on its review of these comments (see section II), USEPA still believes that the existing State rule cannot be approved for the reasons noted above. Consequently, USEPA is disapproving the State rule in final.

8. Clarification of 3-Year Averaging (Subpart A, Section 215.107)

On August 21, 1987, Illinois submitted a revision to the applicability section of its rules which clarified the 3-year averaging criterion used in the rules for graphic arts (subparts H and P) and bulk gasoline plants (subpart Y). Because 3-year averaging is not consistent with the RACT requirements, this revision, as well as the relevant portions of the rules for graphic arts and bulk gasoline plants, is not acceptable. No public comments were received on USEPA's proposed action on this rule. Consequently, USEPA is disapproving the revised rule. (As noted below, USEPA is promulgating revisions to correct this deficiency in the graphic arts and bulk gasoline plant rules.)

9. Diesel-Electric Locomotive Coating (Subpart F, Section 215.204(m))

On July 29, 1988, Illinois submitted a revised surface coating rule which relaxes the emission limitations for "existing diesel-electric locomotive coating lines in Cook County" from the emission limitations in the otherwise

applicable miscellaneous metal parts and products rule. The rule currently applies to GM-EMD in Cook County. USEPA proposed to disapprove the State rule because the State had not demonstrated that the revised limits are consistent with RACT. Several public comments were received on USEPA's proposed action on this rule (see "GM-EMD" in section II). Based on its review of these comments, USEPA still believes that the existing State rule is not consistent with RACT and, therefore, cannot be approved. Consequently, USEPA is disapproving the State rule in final.

B. Final Approval

1. Definitions (Part 211, Subpart B, Section 211.122)

On January 8, 1988, Illinois submitted definitions for gas service, liquid service, volatile organic liquid, and volatile organic material. The definitions for gas service, liquid service, and volatile organic liquid are consistent with USEPA's RACT guidance. The revised definition of volatile organic material eliminates the reference to any vapor pressure cutoff and identifies seven additional exempt compounds with negligible photochemical reactivity and is generally consistent with the model definition in USEPA's RACT guidance. No public comments were received on USEPA's proposed action on this rule. Thus, USEPA is approving these definitions. Although USEPA is approving the State definitions, USEPA is also promulgating a comprehensive set of definitions in the General Provisions section of the Federal rule, which includes these same terms. As noted in section II, the applicable definitions in the implementation plan will then consist of the federally approved definition portions of the State rule (§§ 201.102, 211.122, and 215.104) and the Federal General Provisions sections. The Federal definitions will supersede, for the purposes of the Federal rules, the definitions for terms included in §§ 201.102, 211.122, or 215.104 where the same term is defined. Thus, the Federal definitions for these terms, which is substantially similar to the revised State definition, is the federally enforceable definition for this rule for the purposes of the Federal rules.

2. SOCMI Air Oxidation (Subpart V)

On December 22, 1987, Illinois submitted a rule which establishes control requirements, and testing and monitoring provisions, for SOCMI air oxidation processes. The new rule is consistent with the December 1984 CTG

document entitled "Control of Volatile Organic Compound Emissions from Air Oxidation Processes in Synthetic Organic Chemical Manufacturing Industry". No public comments were received on USEPA's proposed action on this rule. Consequently, USEPA is approving the revised rule in final.

3. SOCMI Leaks (Part 211, Subpart B, Section 211.122, Part 215, Subpart A, Section 215.104, and Part 215, Subpart Q)

On May 2, 1988, Illinois submitted a revised rule for leaks from Synthetic Organic Chemical and Polymer Manufacturing Equipment, including definitions for component, in-vacuum service, open-ended valve, and repaired. Except for certain monitoring provisions, the revised rule is consistent with USEPA's RACT guidance and is, therefore, approvable. Because certain monitoring exemptions in section 215.432 are not appropriate and an alternative monitoring program in section 215.436 is authorized without USEPA approval, USEPA cannot approve these portions of the rule. No public comments were received on USEPA's proposed action on this rule. Consequently, USEPA is approving in final the revised SOCMI leak rule, except for §§ 215.432 and 215.436 which USEPA is disapproving in final.²² USEPA is promulgating a Federal rule covering monitoring for SOCMI leaks.

4. Polystyrene Plants (Subpart A, Section 215.104 and Subpart BB)

On October 2, 1987, Illinois submitted a rule which establishes control requirements, and testing and monitoring provisions, for polystyrene plants. The rule also included definitions for continuous process, material recovery section, polystyrene plant, polystyrene resin, styrene devolatilizer unit, and styrene recovery unit. The new rule is consistent with the November 1983 CTG document entitled "Control of Volatile Organic Compound Emissions from Manufacture of High-Density Polyethylene, Polypropylene, and Polystyrene Resins" and the January 9, 1986, memorandum entitled "Clarification of CTG RACT Recommendation for High-Density Polyethylene, Polypropylene, and Polystyrene". No public comments were received on USEPA's proposed action on this rule. Consequently, USEPA is approving the revised rule in final.

²² On September 25, 1989, Illinois submitted a revision to its SOCMI leak rule. This revision will be addressed by USEPA in a future Federal Register notice.

5. Heatset Web Offset (Subpart P, Section 215.408)

On September 28, 1987, Illinois submitted emission limitations and compliance schedules for heatset web offset lithographic printing. The applicability criteria, emission limits, and compliance schedule are consistent with the August 1981 draft CTG document entitled "Control of Volatile Organic Compound Emissions from Full-Web Process-Color Heatset Web Offset Lithographic Printing" and other USEPA guidance on RACT for major non-CTG sources in nonattainment areas. No public comments were received on USEPA's proposed action on this rule. Although USEPA is approving the State rule for heatset web offset printing, USEPA is also promulgating a comprehensive Federal rule for graphic arts. The Federal rule will include a heatset web offset regulation substantially similar to the State rule. The Federal rule will represent the applicable federally enforceable rule. This is appropriate because the heatset web offset provisions are inextricably linked to other graphic arts provisions that USEPA is promulgating.

6. Alternative Emission Limitations (Subpart F, Section 215.205)

On January 8, 1988, and March 28, 1988, Illinois submitted a revised rule concerning alternative emission limitations for coating operations. The revision establishes an overall control efficiency requirement of 81 percent, except for can coating operations (where the control requirement remains at 75 percent). This revision is supported by the April 1981 study entitled "Determination of Capture and Destruction Efficiencies of Selected Volatile Organic Compound Control Devices in the State of Illinois" and generally satisfies the concerns cited by USEPA in its prior conditional approval of Illinois' RACT I regulations (45 FR 11494). No public comments were received on USEPA's proposed action on this rule. Although USEPA is approving the revised State rule, USEPA is also promulgating a comprehensive Federal rule for coating operations. The Federal rules will include a provision for alternative emission limitations similar to the State rule. The Federal rule will represent the applicable federally enforceable rule. This is appropriate because the alternative emission limitation provisions are inextricably linked to other coating operation provisions that USEPA is promulgating.

7. External Floating Roofs (Subpart H, Sections 215.240, 241, 249 and Subpart B, Section 215.124)

On August 21, 1987, Illinois submitted a revised rule which modified the exemption for stationary crude oil storage tanks equipped with an external floating roof regarding the requirement to use secondary seals. The revised rule limits the exemption to tanks used to store crude oil with a pour point of 50 °F or higher as determined by ASTM Standard D97-86. This revision is consistent with the December 1978 CTG document entitled "Control of Volatile Organic Emissions from Petroleum Liquid Storage in External Floating Roof Tanks". No public comments were received on USEPA's proposed action on this rule. Consequently, USEPA is approving the revised rule in final.

8. Gasoline Tank Trucks and Vapor Collection Systems (Part 211, Subpart B, Section 211.122 and Part 215, Subpart Y, Sections 215.582-215.584)

On August 21, 1987, Illinois submitted revised rules for bulk gasoline plants, bulk gasoline terminals, and gasoline dispensing stations; a new rule for gasoline delivery vessels; and a definition for vapor collection system. These rules establish requirements for leak prevention from gasoline tank trucks and vapor collection systems. These regulations satisfy USEPA guidance for leak testing and repair of gasoline tank trucks and vapor collection systems. The State has also adopted USEPA-approved test methods for use with these rules. The revised rule for bulk gasoline plants, bulk gasoline terminals, and gasoline dispensing facilities establishes operating and repair requirements for vapor collection systems consistent with the December 1978 CTG document entitled "Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems". No public comments were received on USEPA's proposed action on this rule. Consequently, USEPA is approving the revised rule in final.

9. Petroleum Dry Cleaning (Subpart Z, Sections 215.607-613)

On June 25, 1987, Illinois submitted a rule which establishes control requirements, testing and monitoring provisions, and compliance dates for large petroleum dry cleaners. The new rule is consistent with the September 1982 CTG document entitled "Control of Volatile Organic Compound Emissions from Large Petroleum Dry Cleaners" and relevant USEPA guidance on test methods and expeditiousness. No public

comments were received on USEPA's proposed action on this rule. Consequently, USEPA is approving the revised rule in final.

10. Miscellaneous

Compliance Dates, Geographical Areas, and Compliance Plans: On July 11, 1985 (50 FR 28224), USEPA proposed to approve a portion of the State's RACT rules, including several sections related to compliance dates, geographical areas covered by the rules, and compliance plans (i.e., subpart B, sections 215.125 and 215.126; subpart R, section 215.453, subpart S, sections 215.465 and 215.466; and subpart Z, sections 215.604, 215.606, 215.612, and 215.613). USEPA is approving these sections in final at this time. Because the compliance dates have long passed, the geographical areas are consistent with the remainder of the State's RACT rules and the Federal rules, and the requirement to submit compliance plans to the State has been in place for several years, USEPA believes that its final approval of these portions of the State rule will not impose any significant impact.

11. Miscellaneous

Definitions: On July 11, 1985 (50 FR 28224), USEPA proposed to approve 28 definitions related to the State's RACT II rules, including rules for petroleum refining fugitive emissions, rubber tire manufacturing, and perchloroethylene dry cleaning. In the notice of final rulemaking on these three rules (52 FR 45333, November 27, 1987), USEPA inadvertently omitted the definitions from the codification of the revised plan. USEPA is approving 13 of these definitions in final at this time. The approved definitions are bead-dipping; dry cleaning facility; external floating roof; green tire spraying; green tires; heavy liquid; liquid mounted seal; pneumatic rubber tire manufacturing; refinery unit, process unit, or unit; tread end cementing; undertread cementing; valves not externally regulated; and vapor mounted primary seal. Further action on 11 of the definitions (air dried coating, clear coating, extreme performance coating, flexographic printing, heavy off-highway vehicle products, low solvent coating, packaging rotogravure printing, publication rotogravure printing, roll printing, rotogravure printing, and transfer efficiency) is unnecessary at this time. All of these terms relate to either the surface coating or the printing and publishing rules. Because USEPA's promulgation of comprehensive Federal rules for surface coating and printing and publishing includes these definitions, the State's definitions are

not relevant. (Note, the remaining definitions—component, gas service, liquid service, and volatile organic material—have been superseded by later State submittals, as noted above.)

IV. Federal Rules

A. Overview of Rules

USEPA is promulgating Federal rules under section 110(c) to correct all of the deficiencies described in Exhibit B of the settlement agreement. These Federal rules modify the following stationary source category rules to bring them into conformance with RACT requirements as interpreted by USEPA guidance:

Solvent Metal Cleaning;
Coating Operations, including automobile or light duty truck, can, paper, coil, fabric, vinyl, metal furniture, large appliance, magnet wire, MMPP, diesel-electric locomotive (i.e., GM-EMD), heavy off-highway vehicle products, and wood furniture;
Printing and Publishing Operations, including flexographic and rotogravure printing, and heatset web offset lithographic printing;
SOCMI Leaks;
Petroleum Refinery Leaks;
Pharmaceutical Manufacturing;
Bulk Gasoline Plants; and
Major Non-CTG Sources (Generic Rules), including paint and ink manufacturing, miscellaneous fabricated product manufacturing, miscellaneous formulation manufacturing, miscellaneous organic chemical manufacturing, and other emission sources.

In addition to the Federal rules promulgated for these stationary source categories, USEPA is promulgating revised General Provisions. This section includes new or revised definitions, revised test methods and procedures, a seasonal exemption only for gas-fired afterburners, a requirement that any alternative emission limitation or variance must be submitted to and approved by USEPA, and more specific procedures for determining the vapor pressure of organics.

The approach followed by USEPA today consists of new Federal rules which replace part or all of the individual State rules that have been federally approved. These new Federal rules would just correct the RACT deficiencies identified previously. The resultant plan for Illinois consists of some federally approved (State) rules and some federally promulgated (Federal) rules. USEPA believes that this approach provides the best model for the State to secure eventually a total federally approved SIP by highlighting the changes Illinois must make to its rules.

It should be noted that under section 110(d) of the CAA and USEPA's

Continuity Policy the existing federally-approved SIP regulations for any source will continue to apply, and be fully enforceable, until the date on which the source is required to comply with the new regulations. Further, the existing SIP will continue in force if there is any delay or lapse in the applicability of the new regulations. However, if (but only if) the existing and new regulations conflict, so that a source cannot comply with the existing SIP while moving toward compliance with the new regulations, the source may apply for a site-specific exemption from the existing SIP from the State. All such exemptions granted by the State must be submitted to and approved by USEPA before such exemption from the SIP is in effect.

A summary of each rule being promulgate today is provided below.

1. Solvent Metal Cleaning

The Federal rule eliminates the exemption for solvent metal cleaning operations that emit less than 6.8 kg/day (15 lbs/day) and 1.4 kg/hr (3 lbs/hour). As noted previously, such an exemption is inconsistent with USEPA's RACT guidance. Because elimination of this exemption will subject some new sources to the solvent metal cleaning rule, new compliance schedules will be added which require these newly subject facilities to be in compliance by July 1, 1991. A section on test methods has also been added which specifies the most current USEPA-approved test methods.

2. Coating Operations

The Federal rule establishes a complete rule for the following coating operations: paper coating, fabric coating, can coating, coil coating, miscellaneous metal parts and products coating, automobile or light-duty truck assembly-line coating, vinyl coating, magnet wire coating, metal furniture coating, wood furniture coating, large appliance coating, existing diesel-electric locomotive coating (i.e., GM-EMD), and heavy off-highway vehicle products coating. The rule applies to coating operations (except wood furniture coating) with actual emissions more than 15 pounds per day before add-on control. (Wood furniture coating operations with maximum theoretical emissions greater than 100 TPY, in the absence of add-on control equipment, are subject to the rule.) The rule provides a restricted exemption (which the State rule does) for equipment used for both printing and paper coating. (The equipment must be subject to either the paper coating or graphics rule, but not both.) According to the Federal rule, emission limitations are expressed in

units of VOC per gallon of coating (minus water and exempt solvents) and reflect either instantaneous or daily-weighted averages. In addition, the rule requires that alternative emission limitations (for sources wishing to comply using add-on controls) be expressed as pounds of VOC per gallon of solids. Sources wishing to comply using internal offsets or cross-line averaging are required to satisfy the requirements of the ETPS, including the submittal of a site-specific plan revision to USEPA. Improved recordkeeping and reporting requirements are also included in the Federal rule.

3. Printing and Publishing (Graphic Arts)

The Federal rule requires printing and publishing operations to use instantaneous or daily averaging in calculating emissions, along with the most current test methods. Exemption levels are based on single calendar year maximum theoretical emissions, not a 3-year average of actual emissions, as in the current State rule. Improved recordkeeping and reporting requirements are included in the Federal rule.

4. SOCM Leaks

The Federal rule requires synthetic organic chemical and polymer manufacturers to monitor additional equipment components with low accessibility for VOC leaks on an annual basis. The rule also requires that any alternative leak detection program undergo prior USEPA approval as a plan revision, so USEPA can ensure that the alternative program is indeed equivalent in effect to the otherwise applicable program.

5. Petroleum Refinery Leaks

The Federal rule requires petroleum refineries to monitor "inaccessible" valves (i.e., valves with difficult accessibility) annually and to monitor certain components more frequently than is required under the State rule. The rule also requires that any alternative leak detection program undergo prior USEPA approval as a plan revision, so USEPA can ensure that the alternative program is indeed equivalent in effect to the otherwise applicable program. In addition, the rule establishes dates for the submittal of a revised monitoring program plan and of the first monitoring report.

6. Pharmaceutical Manufacturing

The Federal rule for pharmaceutical manufacturing specifies applicability provisions, testing and monitoring, control equipment, and recordkeeping requirements for both synthetic and

non-CTG pharmaceutical manufacturing operations. The rule generally applies to sources emitting either: (a) More than both 6.8 kg/day (15 lbs/day) and 2,268 kg/yr (2.5 TPY), or (b) more than 45.4 kg/day (100 lbs/day). Control equipment other than surface condensers must achieve reductions of at least 81 percent.

7. Bulk Gasoline Plants

The Federal rule changes the gasoline throughput exemption for bulk gasoline plants from 350,000 gallons per year and 1,000,000 gallons per year averaged over the preceding 3 calendar years to 4,000 gallons per day on a 30-day rolling average.

8. Major Non-CTG (Generic) Rules

USEPA's interpretation of the stationary source RACT requirements calls for the control of all major facilities (i.e., greater than 100 TPY). All major sources covered by a CTG are discussed above. To cover all major non-CTG sources, USEPA has developed five generic non-CTG rules based on the State's rules. These five rules would regulate VOC emissions from paint and ink manufacturing processes, miscellaneous fabricated product manufacturing processes, miscellaneous organic chemical manufacturing processes, and other major non-CTG emission sources. (Note: USEPA's pharmaceutical manufacturing rules include non-CTG pharmaceutical manufacturing operations and USEPA's coating rules include non-CTG source category (i.e., wood furniture coating).)

The Federal rule for paint and ink manufacturing operations would apply to plants that have maximum theoretical emissions of 100 TPY or more of VOC emissions from non-CTG sources, or that produce more than 7,570,820 liters (2,000,000 gallons) per year of paints and inks which contain less than 10 percent by weight of water, and ink formulations not containing as the primary solvents water, Magie oil, or glycol. In addition, storage tanks containing volatile organic liquids with a vapor pressure greater than 10 kilopascals (kPa) would have to be equipped with pressure/vacuum conservation vents, and tanks larger than 946 liters (250 gallons) would have to be submerged filled or bottom filled.

The rules for miscellaneous formulation manufacturing processes, miscellaneous fabricated product manufacturing processes, and miscellaneous organic chemical manufacturing processes apply to such processes that are not regulated under any of the other specific source categories. Facilities with total

maximum theoretical emissions of 100 TPY or more from both non-CTG sources and unregulated CTG sources would be regulated, with an exemption for smaller individual sources. A provision for determining compliance based on current USEPA methods has also been added.

The rule for "other emission sources" is similar to the rules for the three miscellaneous categories. The rule is intended as a catch-all for any other major non-CTG source which may not be subject to the four generic rules discussed above. Consistent with the State's rule, the Federal rule exempts sewage treatment plants, vegetable oil processing facilities, coke ovens (including by-product recovery plants), fuel combustion sources, bakeries, barge loading facilities, jet engine test cells, pharmaceutical manufacturing, production of polystyrene foam insulation board (including storage and extrusion of scrap where blowing agent is added to the polystyrene resin at the plant), production of polystyrene foam insulation board (not including storage and extrusion of scrap where blowing agent is added to the polystyrene resin at the plant), and iron and steel production.²³

Finally, USEPA is also promulgating specific recordkeeping and reporting requirements which would apply to the three miscellaneous category rules, and the other emission source rule.

9. General Provisions

The General Provisions section in the Federal rule contains requirements and clarifications which affect the other sections of the VOC rule. The main

elements of this section are: Definitions, Test Methods, Determination of Vapor Pressure, Compliance Dates, and Alternative Compliance Determinations. A comprehensive list of definitions is contained, including definitions which correct the relevant deficiencies in the State rule and which clarify the Federal rule.

Note: definitions not included in the Federal rule, but which are contained in the existing federally approved State rule remain as part of the implementation plan.

Test methods and procedures are specified for coatings, inks, and fountain solutions; automobile or light-duty truck coating operations (including a transfer efficiency test protocol); capture system efficiency test protocols; control device efficiency testing and monitoring; overall efficiency; VOC gas phase source test methods; VOC leak detection methods; bulk gasoline delivery system test protocols; and solvent metal cleaning VOC emissions. Specific procedures for determining vapor pressure have also been added to the Federal rule. Compliance with the promulgated rules is required by July 1, 1991, unless otherwise indicated in the individual source category rules. Any exemptions, variance, or alternatives to the control requirements or test methods are federally effective only if submitted to and approved by USEPA as a plan revision.

In addition, the General Provision section contains a seasonal exemption for afterburners. In the Federal rule, an exemption is provided only for natural gas-fired afterburners during the period of November 1 through April 1.

C. Summary of Changes to Proposed Rules

Based on the public comments and upon further consideration, USEPA has determined that certain changes to the proposed rules are appropriate, as discussed above. A summary of the significant changes is provided below:

(a) General Provisions

***Revised:** References to ASTM methods to reflect current version:

(1) Abbreviations and Conversion Factors

***Deleted:** BTU and RACT (see Definitions)

(2) Applicability

(3) Definitions

***The applicability of the Federal definitions will be limited to the Federal rules.**

***Revised:** Actual emissions, afterburners, air dried coatings, allowable emissions, as applied, automobile or light-duty truck assembly

(manufacturing) plant, binders, bulk gasoline plant, can, coating applicator, coating line, coating plant, condensate, control device emission source, enclosure, exterior base coating (coat), exterior end coating (coat), federally enforceable, final repair coat, fixed roof tank, gasoline, heavy liquid, interior body spray coating (coat), magnet wire coating, maximum theoretical emissions (potential emissions/potential to emit), metal furniture coating, overvarnish, petroleum refinery, plant, prime coat, printing line, publication rotogravure printing line, roll coater, roll printer, sealer, source, specified air contaminant, submerged loading pipe (submerged fill pipe), topcoat, vapor recovery system, vinyl coating, volatile organic compound, and volatile organic material.

***Added:** Accelacota, air suspension coater/dryer, airless spray, air-assisted airless spray, brush or wipe coating, capture, capture device, capture efficiency, control device efficiency, electrostatic bell or disc spray, electrostatic spray, gas/gas method, heated airless spray, hood, hood capture efficiency, liquid/gas method, lithographic printing line, magnet wire, multiple packaging coatings, organic compound, overall control, pharmaceutical coating operation, printing, refrigerated condenser, roller coating, and tablet coating operation.

***Deleted:** Actual heat input, agency, ambient air, British thermal unit, building, structure, facility, or installation, emission rate, electrostatic application, electrostatic coating, emissions unit, can-seam spray, complete combustion, excess air, flow coating, furniture coating application line, graphic arts coating facility, graphic arts coating line, gross heating value, heavy off-highway vehicle, interior base coating, liquid-mounted primary seal, petroleum liquid, photochemically reactive material, pressure tanks, reasonably available control technology, refinery, vapormounted primary seal, varnishes, and volatile petroleum liquid.

(4) Testing Methods and Procedures

(ii) Has been retitled "Automobile or Light-Duty Truck Test Protocol"

***Specific procedures for determining capture efficiency have been included in (iii) based on the final guidance document.**

***The provision for alternative, equivalent test methods in (i)(B)(4) has been clarified and a comparable provision has been added in (vi) for VOM Gas Phase Source Test Methods.**

***Reference to "fixed-bed carbon adsorption system" in (vi)(A) has been**

²³ USEPA is still considering the need to establish site-specific emission limitations and standards, as alternative to the Federal Generic Rule, for two plants (Allsteel in Kane County and Viskase in Cook County) in response to the public comments received from these companies. The highly technical, source-specific nature of these comments (e.g., there is only one other company which manufactures cellulose food casings besides Viskase in the United States and the feasibility of complaint adhesives for metal furniture manufacturing operations such as Allsteel has not been established) will take additional time for USEPA to review and respond to. As noted above, the need to promulgate Federal regulations under the tight timeframe ordered by the Court has prevented USEPA from being able to consider fully the merits of these two proposed, alternative site-specific limits. Although for environmental and equity reasons, USEPA believes that it is necessary to establish emission limitations and standards for all sources at this time, USEPA will continue to consider the need to adopt as Federal measures site-specific limits for these two sources. USEPA has delayed the effective date of these rules until January 1, 1991, for these two sources to allow the Agency time to fully analyze the proposed alternative limits. If determined to be appropriate, then USEPA will propose revised Federal limits at a later date.

changed to simply "carbon adsorption system".

*(iv)(B)(2) has been modified to allow the VOM concentration of exhaust to be monitored, as alternative to the temperature rise across the catalytic afterburner bed.

*Deleted (ix), not necessary for the Federal rules

*Clarification on use of liquid/liquid test protocol in (v)(A) has been added

(5) Compliance Dates

*The compliance date for these Federal rules has been revised from April 1, 1991, (and in certain cases, the date of promulgation), to July 1, 1991

(6) Afterburners

(7) Exemptions, Variances and Alternative Means of Control

*Retitled to cover "Compliance Determinations" also

(8) Vapor Pressure of Volatile Organic Liquids

(9) Vapor Pressure of Organic Material or Solvent

(10) Vapor Pressure of Volatile Organic Material

(b)-(c) [Reserved]

(d) Solvent Cleaning

(1) Solvent Cleaning in General

(2) Compliance Schedule

*The compliance date has been revised from April 1, 1991, to July 1, 1991.

(3) Test Methods

(e) Coating Operations

(1) Emission Limitations for Manufacturing Plants

* (i)(M) has been retitled "Existing Diesel-Electric Locomotive Coating Lines in Cook County"

*More definitive compliance provisions for automobile or light-duty truck coating operations have been noted in (i)(A)(3)

*The term " C_1 " has been corrected to be " L_1 " in the denominator in the equation in (ii)(C)(2)

(2) Alternative Emission Limitations

*Afterburners have been added to the list of control devices in (i)(B)

(3) Exemptions from Emission Limitations

(4) Exemption from General Rule on Use of Organic Material

(5) Compliance Schedule

*The compliance date has been revised from April 1, 1991, to July 1, 1991.

(6) Recordkeeping and Reporting

*All references to April 1, 1991, have been revised to July 1, 1991.

*All references to the "start-up of a new coating line" have been revised to the "initial start-up of a new coating line"

*The requirement to collect and record the weight of VOM per volume of coating solids as applied each day on each coating line has been changed to only apply to sources complying pursuant to (2)(i)(B)

*More explicit recordkeeping requirements have been added in (ii)(A) and (ii)(B) and the reporting provisions of (ii)(C)(1) have been modified for sources subject to (i)(A)(3). A recertification provision has been added for sources subject to (i)(A)(3).

(f)-(g) [Reserved]

(h) Printing and Publishing

(1) Flexographic and Rotogravure Printing

*Definition of " V_{VOM} " in (ii) has been corrected

(2) Applicability

(3) Compliance Schedule

*The compliance date has been revised from April 1, 1991, to July 1, 1991. Also, the requirement for immediate compliance in (v) has been deleted.

*(ii), (iii), (iv) have been modified to include reference to (1)(i), (1)(ii), and (1)(iii), respectively

(4) Recordkeeping and Reporting

*The requirement in (iv)(B)(1) has been deleted

*All references to the "start-up of a new printing line" have been revised to the "initial start-up of a new printing line"

(5) Heatset Web Offset Lithographic Printing

*All references to the "start-up of a new printing line" have been revised to the "initial start-up of a new printing line"

*All references to April 1, 1991, have been revised to July 1, 1991. Also, the requirement for immediate compliance in (iv)(D) has been deleted.

*(iv)(B) and (iv)(C) have been modified to include reference to (ii)(A) and (ii)(B), respectively.

(i) Leaks From Synthetic Organic Chemical and Polymer Manufacturing Equipment

(1) Inspection Program for Leaks

(2) Alternative Program for Leaks

(j) Petroleum Refining and Related Industries: Asphalt Materials

(1) Monitoring Program for Leaks

(2) Alternative Program for Leaks

(3) Compliance Schedule for Leaks

*Revised dates from June 1, 1990, to September 1, 1990, and from July 1, 1990, to October 1, 1990

(k)-(l) [Reserved]

(m) Pharmaceutical Manufacturing

*Revised to "(m) PHARMACEUTICAL MANUFACTURING"

(1) Applicability

*Revised exemption levels for air suspension coater/dryer and tunnel dryer

*Added requirements in (vi) that sources be controlled at all times and in (vii) that controls be operated at all times

*Added method in (viii) for calculating daily and annual emissions for applicability purposes

(2) Control of Reactors, Distillation Units, Crystallizers, Centrifuges, and Vacuum Dryers

*Clarified enclosure restriction

(3) Control of Air Dryers, Production Equipment, Exhaust Systems, and Filters

*Clarified enclosure restriction

*Deleted (iii), in view of addition in (1)(vi)

(4) Material Storage and Transfer

*Deleted provision in (ii) concerning alternative control devices

*Deleted provision in (iii), in view of addition in (1)(vii)

(5) In-Process Tanks

(6) Leaks

(7) Other Emission Sources

*Revised "capsule coating operation" to "tablet coating operation"

*Deleted (iii), in view of addition in (1)(vi)

(8) Testing

*Revised reference to test methods from (m)(8)(iii), which has been deleted, to (a)(vi)(A)

(9) Monitoring and Recordkeeping for Air Pollution Control Equipment

*Revised wording in (i)(A)(2),

(ii)(A)(1), and (ii)(A)(2)

*Revised recordkeeping requirements for leaks and in-process tanks

*Added provision in (ii)(D) concerning the calculation of daily and annual emissions for applicability purposes

(n)-(p) [Reserved]

(q) Gasoline Distribution

(1) Bulk Gasoline Plants

*All references to "throughput" have been revised to "gasoline throughput"

(r) [Reserved]

(s) Paint and Ink Manufacturing

(1) Applicability

(2) Exemption for Waterbase Material and Heatset-Offset Ink

(3) Permit Conditions

(4) Open-top Mills, Tanks, Vats, or Vessels

(5) Grinding Mills

(6) Storage Tanks

(7) Leaks

(8) Clean Up

(9) Compliance Schedule

*The compliance date has been revised from April 1, 1991, to July 1, 1991, for all affected facilities.

- (10) Recordkeeping and Reporting
(t) [Reserved]
- (u) Miscellaneous Fabricated Product Manufacturing Processes
- (1) Applicability
*Revised "regulated by" in first sentence in (i) to "included within any of the source categories specified in"
*References to other rules have been clarified
- (2) Permit Conditions
(3) Control Requirements
(4) Compliance Schedule
*The compliance date has been revised from April 1, 1991, to July 1, 1991, for all affected facilities.
(5) Testing
- (v) Miscellaneous Formulation Manufacturing Processes
- (1) Applicability
*Revised "regulated by" in first sentence in (i) to "included within any of the source categories specified in"
*References to other rules have been clarified
- (2) Permit Conditions
(3) Control Requirements
(4) Compliance Schedule
*The compliance date has been revised from April 1, 1991, to July 1, 1991, for all affected facilities.
(5) Testing
- (w) Miscellaneous Organic Chemical Manufacturing Processes
- (1) Applicability
*Revised "regulated by" in first sentence in (i) to "included within any of the source categories specified in"

- *References to other rules have been clarified
- (2) Permit Conditions
(3) Control Requirements
(4) Compliance Schedule
*The compliance date has been revised from April 1, 1991, to July 1, 1991, for all affected facilities.
(5) Testing
- (x) Other Emission Sources
- (1) Applicability
*Revised "regulated by" in first sentence in (i) to "included within any of the source categories specified in"
*References to other rules have been clarified
*Added sewage treatment plants and vegetable oil processing plants to the list of exempt facilities
*Replaced "non-synthetic pharmaceutical manufacturing" with "pharmaceutical manufacturing" in list of exempt facilities
*Clarified coverage of the list of exempt source categories
- (2) Permit Conditions
(3) Control Requirements
(4) Compliance Schedule
*The compliance date has been revised from April 1, 1991, to July 1, 1991, for all affected facilities.
(5) Testing
- (y) Recordkeeping and Reporting for Non-CTG Sources
- (1) Exempt Emission Source
(2) Subject Emission Sources
(z) [Reserved]
USEPA believes that these changes are supported by the information in the

rulemaking docket, which has been open for public review and comment, and are responsive to the public comments. Consequently, USEPA believes that it can make these changes in this final rulemaking action without having to repropose.

V. Summary of Rules

Today's notice takes final action on Illinois rules which have been submitted by the State, and promulgates Federal rules to amend all deficiencies not corrected by Illinois. Table 1 provides a summary of the Federal rules being promulgated, the State rules being approved, and the State rules which have been approved and are not changing. It should be noted that the format of Table 1 is modeled after the Illinois RACT rules (*i.e.*, see the June 1989 version of Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter I: Pollution Control Board of the Illinois Administrative Code [IAC]). The State rules are identified by their IAC designation (*i.e.*, the 215 series). When approved as part of the SIP, some of these rules were identified by an earlier IPCB number (*i.e.*, the 205 series). A comparison between the "205" and "215" versions indicates only minor differences. Consequently, USEPA is recodifying the existing SIP rules to reflect the version and number in the IAC. The following designations are used in Table 1:

FED—Federal Rule

SIP—Federally approved State rule

TABLE 1.—SUMMARY OF VOC RULES FOR ILLINOIS

State No.	Rule	Federal No.
Subpart A: General Provisions		52.741(a).
¹ 215.103	Abbreviations and Conversion Factors (FED)	
¹ 215.107	Applicability (FED)	
	Definitions (FED)	
215.104	Definitions (SIP)-partial	
201.102	Definitions (SIP)-partial	
211.122	Definitions (SIP)-partial	
¹ 215.102	Testing Methods and Procedures (FED)	
	Compliance Dates (FED)	
¹ 215.106	Afterburners (FED)	
	Exemptions, Variances and Alternative Means of Control (FED)	
	Vapor Pressure of Volatile Organic Liquids (FED)	
	Vapor Pressure of Organic Material or Solvent (FED)	
	Vapor Pressure of Volatile Organic Material (FED)	
Subpart B: Organic Emissions from Storage and Loading Operations		
215.121	Storage Containers (SIP)	
215.122	Loading Operations (SIP)	
215.123	Petroleum Liquid Storage Tanks (SIP)	
215.124	External Floating Roofs (SIP)	
215.125	Compliance Dates and Geographical Areas (SIP)	
215.126	Compliance Plan (SIP)	
Subpart C: Organic Emissions from Miscellaneous Equipment		
215.141	Separation Operations (SIP)	
215.142	Pumps and Compressors (SIP)	
215.143	Vapor Blowdown (SIP)	
215.144	Safety Relief Valves (SIP)	
¹ 215.181	Solvent Cleaning in General (FED)	
		52.741(d)(1).

TABLE 1.—SUMMARY OF VOC RULES FOR ILLINOIS—Continued

State No.	Rule	Federal No.
215.182	Cold Cleaning (SIP)	
215.183	Open Top Vapor Degreasing (SIP)	
215.184	Conveyorized Degreasing (SIP)	
¹ 215.185	Compliance Schedule (FED)	52.741(d)(2).
	Test Methods (FED)	52.741(d)(3).
	Subpart F: Coating Operations	52.741(e).
¹ 215.204	Emission Limitations for Manufacturing Plants (FED)	
¹ 215.205	Alternative Emission Limitations (FED)	
¹ 215.206	Exemptions from Emission Limitations (FED)	
¹ 215.209	Exemption from General Rule on Use of Organic Material (FED)	
¹ 215.211	Compliance Schedule (FED)	
	Recordkeeping and Reporting (FED)	
	Subpart H: Special Limitations for Sources in Major Urbanized Areas Which are Nonattainment for Ozone	
215.240	Applicability (SIP)	
215.241	External Floating Roofs (SIP)	
215.249	Compliance Dates (SIP)	
	Subpart K: Use of Organic Material	
215.301	Use of Organic Material (SIP)	
215.302	Alternative Standard (SIP)	
215.303	Fuel Combustion Emission Sources (SIP)	
215.304	Operations with Compliance Program (SIP)	
	Subpart P: Printing and Publishing	52.741(h).
¹ 215.401	Flexographic and Rotogravure Printing (FED)	
¹ 215.403	Applicability (FED)	
¹ 215.405	Compliance Schedule (FED)	
¹ 215.404	Recordkeeping and Reporting (FED)	
¹ 215.408	Heatset-Web-Offset Lithographic Printing (FED)	
	Subpart Q: Leaks from Synthetic Organic Chemical and Polymer Manufacturing Equipment	
215.420	Applicability (SIP)	
215.421	General Requirements (SIP)	
215.422	Inspection Program Plan for Leaks (SIP)	
215.423	Inspection Program for Leaks (SIP)	
215.424	Repairing Leaks (SIP)	
215.425	Recordkeeping for Leaks (SIP)	
215.426	Reporting for Leaks (SIP)	
215.427	Alternative Program for Leaks (SIP)	
215.428	Compliance Dates (SIP)	
215.429	Compliance Plan (SIP)	
215.430	General Requirements (SIP)	
215.431	Inspection Program Plan for Leaks (SIP)	
¹ 215.432	Inspection Program for Leaks (SIP).....	52.741(i)(1).
215.433	Repairing Leaks (SIP)	
215.434	Recordkeeping for Leaks (SIP).....	
215.435	Reporting for Leaks (SIP)	
¹ 215.436	Alternative Program for Leaks (FED).....	52.741(i)(2).
215.437	Open-Ended Valves (SIP)	
215.438	Compliance Date (SIP)	
	Subpart R: Petroleum Refining and Related Industries; Asphalt Materials	
215.441	Petroleum Refinery Waste Gas Disposal (SIP)	
215.442	Vacuum Producing Systems (SIP)	
215.443	Wastewater (Oil/Water) Separator (SIP)	
215.444	Process Unit Turnarounds (SIP)	
215.445	Leaks: General Requirements (SIP)	
215.446	Monitoring Program Plan for Leaks (SIP)	
¹ 215.447	Monitoring Program for Leaks (FED).....	52.741(j)(1).
215.448	Recordkeeping for Leaks (SIP)	
215.449	Reporting for Leaks (SIP)	
¹ 215.450	Alternative Program for Leaks (FED).....	52.741(j)(2).
215.451	Sealing Device Requirements (SIP)	
¹ 215.452	Compliance Schedule for Leaks (FED).....	52.741(j)(3).
215.453	Compliance Dates and Geographical Areas (SIP)	
	Subpart S: Rubber and Miscellaneous Plastic Products	
215.461	Manufacture of Pneumatic Rubber Tires (SIP)	
215.462	Green Tire Spraying Operations (SIP)	
215.463	Alternative Emission Reduction Systems (SIP)	
215.464	Testing and Monitoring (SIP)	
215.465	Compliance Dates and Geographical Areas (SIP)	
215.466	Compliance Plan (SIP)	
	Subpart T: Pharmaceutical Manufacturing	52.741(m).
¹ 215.480	Applicability (FED)	
¹ 215.481	Control of Reactors, Distillation Units, Crystallizers, Centrifuges and Vacuum Dryers (FED)	
¹ 215.482	Control of Air Dryers, Production Equipment Exhaust Systems and Filters (FED)	
¹ 215.483	Material Storage and Transfer (FED)	
¹ 215.484	In-Process Tanks (FED)	
¹ 215.485	Leaks (FED)	

TABLE 1.—SUMMARY OF VOC RULES FOR ILLINOIS—Continued

State No.	Rule	Federal No.
1 215.486	Other Emission Sources (FED)	
1 215.487	Testing (FED)	
1 215.488	Monitoring and Recordkeeping for Air Pollution Control Equipment (FED)	
	Subpart V: Air Oxidation Processes	
215.520	Applicability (SIP)	
215.521	Definitions (SIP)	
215.525	Emission Limitations for Air Oxidation Processes (SIP)	
215.526	Testing and Monitoring (SIP)	
215.527	Compliance Date (SIP)	
	Subpart W: Agriculture	
215.541	Pesticide Exception (SIP)	
	Subpart X: Construction	
215.561	Architectural Coatings (SIP)	
215.562	Paving Operations (SIP)	
215.563	Cutback Asphalt (SIP)	
	Subpart Y: Gasoline Distribution	
1 215.581	Bulk Gasoline Plants (FED)	52.741(q)(1).
215.582	Bulk Gasoline Terminals (SIP)	
215.583	Gasoline Dispensing Facilities (SIP)	
215.584	Gasoline Delivery Vessels (SIP)	
	Subpart Z: Dry Cleaners	
215.601	Perchloroethylene Dry Cleaners (SIP)	
215.602	Exemptions (SIP)	
215.603	Testing and Monitoring (SIP)	
215.604	Compliance Dates and Geographic Areas (SIP)	
215.605	Compliance Plan (SIP)	
215.606	Exception to Compliance Plan (SIP)	
215.607	Standards for Petroleum Solvent Dry Cleaners (SIP)	
215.608	Operating Practices for Petroleum Solvent Dry Cleaners (SIP)	
215.609	Program for Inspection and Repair and Leaks (SIP)	
215.610	Testing and Monitoring (SIP)	
215.611	Exemption for Petroleum Solvent Dry Cleaners (SIP)	
215.612	Compliance Dates and Geographical Areas (SIP)	
215.613	Compliance Plan (SIP)	
	Subpart AA: Paint and Ink Manufacturing	52.741(s).
1 215.620	Applicability (FED)	
1 215.621	Exemption for Waterbase Material and Heatset-Offset Ink (FED)	
1 215.623	Permit Conditions (FED)	
1 215.624	Open-top Mills, Tanks, Vats, or Vessels (FED)	
1 215.625	Grinding Mills (FED)	
1 215.626	Storage Tanks (FED)	
1 215.628	Leaks (FED)	
1 215.630	Clean Up (FED)	
1 215.636	Compliance Schedule (FED)	
	Recordkeeping and Reporting (FED)	
	Subpart BB: Polystyrene Plants	
215.875	Applicability of Subpart BB (SIP)	
215.877	Emissions Limitations at Polystyrene Plants (SIP)	
215.879	Compliance Date (SIP)	
215.881	Compliance Plan (SIP)	
215.883	Special Requirements for Compliance Plan (SIP)	
215.886	Testing and Monitoring (SIP)	
	Subpart PP: Miscellaneous Fabricated Product Manufacturing Processes	52.741(u).
1 215.920	Applicability (FED)	
1 215.923	Permit Conditions (FED)	
1 215.926	Control Requirements (FED)	
1 215.927	Compliance Schedule (FED)	
1 215.928	Testing (FED)	
	Subpart QQ: Miscellaneous Formulation Manufacturing Processes	52.741(v).
1 215.940	Applicability (FED)	
1 215.943	Permit Conditions (FED)	
1 215.946	Control Requirements (FED)	
1 215.947	Compliance Schedule (FED)	
1 215.948	Testing (FED)	
	Subpart RR: Miscellaneous Organic Chemical Manufacturing Processes	52.741(w).
1 215.960	Applicability (FED)	
1 215.963	Permit Conditions (FED)	
1 215.966	Control Requirements (FED)	
1 215.967	Compliance Schedule (FED)	
1 215.968	Testing (FED)	
	Other Emission Sources	
	Applicability (FED)	52.741(x).
	Permit Conditions (FED)	
	Control Requirements (FED)	

TABLE 1.—SUMMARY OF VOC RULES FOR ILLINOIS—Continued

State No.	Rule	Federal No.
	Compliance Schedule (FED) Testing (FED) Recordkeeping and Reporting for Generic Rules Exempt Emission Sources (FED) Subject Emission Sources (FED)	52.741(y).

¹ Presented for information purposes only. Federal number is applicable for this rule.

VI. Impacts

The Federal rules are expected to provide an additional reduction in VOC emissions of about 7,600 tons per year (TPY) and to result in an additional cost of \$24 million beyond the existing State rules. The emission reductions and costs were calculated assuming general compliance with all existing State rules, including State rules which have not been federally approved. Because these State rules have been in effect and enforceable at the State level for several years, the emission reductions and costs associated with these rules should have already occurred and should not be double-counted in estimating the impact of the Federal rules. Thus, USEPA believes that the reductions and costs are on the order of 7,600 TPY and \$24 million, respectively.

VI. Regulatory Analysis

A. Administrative Designation and Regulatory Analysis

The Administrator has determined that this action does not constitute a major regulation, as defined in section 1(b) of Executive Order 12291. Specifically, costs under the rule will total less than \$100 million annually. Accordingly, a Regulatory Impact Analysis (RIA) containing a detailed assessment of the FIP RACT rules for Illinois is not required. Nevertheless, a preliminary evaluation of the potential emission reductions and the costs associated with the Federal rules has been prepared. A copy of this preliminary evaluation has been included in the docket for this rulemaking. The regulation also was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any written comments from OMB, and USEPA responses to those comments, have been placed in the public docket for this rulemaking.

B. Impact on Small Entities

Under the Regulatory Flexibility Act (RFA), 5 U.S.C. 600 *et seq.*, USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. According to

section 605(b) of the RFA, this requirement may be waived if the Administrator certifies that the regulations will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and governmental entities with jurisdictions over populations of less than 50,000. USEPA's study on the impact on small entities, which has been included in the docket for this rulemaking action, indicates that for certain source categories, for which sufficient data were available to estimate the economic impact, the rules would not impose a significant impact. For one source category, there would not be a substantial number of small entities which would incur a significant impact. For the remaining source categories, the economic impact was considered to be insignificant, or there were no small entities affected. No public comments were received on USEPA's study. Consequently, the Administrator finds that the Federal rules will not have a significant economic impact on a substantial number of small entities.

C. Reporting and Recordkeeping Requirements

The information collection provisions relating to the final rules have been submitted to OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* A copy of the Information Collect on Request document prepared by USEPA may be obtained from the Information Policy Branch; USEPA, 401 M Street, SW., [PM-223], Washington, DC 20460, or by calling (202) 382-2706. Public comments on USEPA's proposed information collection requirements are addressed in section II. It should be noted that no public comments were received on USEPA's analysis of the impact of these requirements (i.e., the SF-83 Supporting Statement).

Under section 307(b)(1) of the Clean Air Act (CAA), judicial review of the Administrator's action in approving and promulgating this implementation plan under section 110 is available only by filing a petition for review in the United States District Court of Appeals for the

Seventh Circuit within 60 days of today's publication of this notice. Under section 307(b)(2) of the CAA, the requirements of today's notice may not be challenged later in civil or criminal proceedings brought by USEPA to enforce these requirements.

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Environmental Protection, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone.

Dated: June 8, 1990.

William K. Reilly,
Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart O—Illinois

Title 40 of the Code of Federal Regulations, chapter I, part 52, subpart O is being amended as follows:

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7642.

2. 40 CFR part 52 is amended by adding a new § 52.741, subpart O to read as follows:

§ 52.741 Control strategy: Ozone control measures for Cook, DuPage, Kane, Lake, McHenry and Will Counties.

(a) *General Provisions—(1) Abbreviations and conversion factors.*

(i) The following abbreviations are used in § 52.741:

ASTM	American Society for Testing and Materials.
bbl	barrels (42 gallons).
°C	degrees Celsius or centigrade.
cm	centimeters.
cu in.	cubic inches.
°F	degrees Fahrenheit.
FIP	Federal implementation plan.
ft	feet.
ft ²	square feet.
g	grams.
gpm	gallons per minute.
g/mole	grams per mole.
gal	gallons.
hr	hours.
in	inches.

K	degrees Kelvin.
kcal	kilocalories.
kg	kilograms.
kg/hr	kilograms per hour.
kPa	kilopascals; one thousand newtons per square meter.
l	liters.
l/sec	liters per second.
lbs	pounds.
lbs/hr	pounds per hour.
lbs/gal	pounds per gallon.
LEL	lower explosive limit.
m	meters.
m ²	square meters.
m ³	cubic meters.
mg	milligrams.
Mg	Megagrams, metric tons or tonnes.
ml	milliliters.
min	minutes.
MJ	megajoules.
mm Hg	millimeters of mercury.
ppm	parts per million.
ppmv	parts per million by volume.
psi	pounds per square inch.
psia	pounds per square inch absolute.
psig	pounds per square inch gauge.
scf	standard cubic feet.
scm	standard cubic meters.
sec	seconds.
SIP	State implementation plan.
sq cm	square centimeters.
sq in	square inches.
USEPA	United States Environmental Protection Agency.
VOC	volatile organic compounds.
VOL	volatile organic liquids.
VOM	volatile organic materials.

(ii) The following conversion factors are used in § 52.741.

English	Metric
1 gal	3.785 l.
1,000 gal	3,785 l or 3.785 m ³ .
1 psia	6.897 kPa (51.71 mm Hg).
2.205 lbs	1 kg.
1 bbl	159.0 l.
1 cu in	16.39 ml.
1 lb/gal	119,800 mg/l.
1 ton	0.907 Mg.

(2) *Applicability.* The provisions of § 52.741 shall apply to all sources located in Cook, DuPage, Kane, Lake, McHenry or Will County.

(3) *Definitions.* The following terms are defined for the purpose of § 52.741.

Note: The Federal definitions supersede the State definitions for these terms, which were previously approved by USEPA as part of the SIP. The federally approved definitions for all other terms remain in effect and applicable to these Federal rules.

Accelacota means a pharmaceutical coating operation which consists of a horizontally rotating perforated drum in which tablets are placed, a coating is applied by spraying, and the coating is dried by the flow of air across the drum through the perforations.

Accumulator means the reservoir of a condensing unit receiving the condensate from a surface condenser.

Actual emissions means the actual quantity of VOM emissions from an emission source during a particular time period.

Adhesive means any substance or mixture of substances intended to serve as a joining compound.

Administrator means the Administrator of the USEPA or that person's designee.

Afterburner means a control device in which materials in gaseous effluent are combusted.

Air contaminant means any solid, liquid, or gaseous matter, any odor, or any form of energy, that is capable of being released into the atmosphere from an emission source.

Air dried coatings means any coatings that dry by use of air or forced air at temperatures up to 363.15 K (194 °F).

Air pollution means the presence in the atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant, or animal life, to health, or to property, or to unreasonably interfere with the enjoyment of life or property.

Air pollution control equipment means any equipment or facility of a type intended to eliminate, prevent, reduce or control the emission of specified air contaminants to the atmosphere.

Air suspension coater/dryer means a pharmaceutical coating operation which consists of vertical chambers in which tablets or particles are placed, and a coating is applied and then dried while the tablets or particles are kept in a fluidized state by the passage of air upward through the chambers.

Air-assisted airless spray means a spray coating method which combines compressed air with hydraulic pressure to atomize the coating material into finer droplets than is achieved with pure airless spray. Lower hydraulic pressure is used than with airless spray.

Airless spray means a spray coating method in which the coating is atomized by forcing it through a small opening at high pressure. The coating liquid is not mixed with air before exiting from the nozzle.

Allowable emissions means the quantity of VOM emissions during a particular time period from a stationary source calculated using the maximum rated capacity of the source (unless restricted by federally enforceable limitations on operating rate, hours of operation, or both) and the most stringent of:

(A) The applicable standards in 40 CFR parts 60 and 61;

(B) The applicable implementation plan; or

(C) A federally enforceable permit.

Ambient air quality standards means those standards designed to protect the public health and welfare codified in 40 CFR part 50 and promulgated from time to time by the USEPA pursuant to authority contained in Section 108 of the Clean Air Act, 42 U.S.C. 7401 *et seq.*, as amended from time to time.

Application means a device used in a coating line to apply coating.

As applied means the exact formulation of a coating during application on or impregnation into a substrate.

Asphalt means the dark-brown to black cementitious material (solid, semisolid, or liquid in consistency) of which the main constituents are bitumens which occur naturally or as a residue of petroleum refining.

Automobile means a motor vehicle capable of carrying no more than 12 passengers.

Automobile or light-duty truck assembly plant means a facility where parts are assembled or finished for eventual inclusion into a finished automobile or light-duty truck ready for sale to vehicle dealers, but not including customizers, body shops, and other repainters.

Automobile or light-duty truck refinishing means the repainting of used automobiles and light-duty trucks.

Baked coatings means any coating which is cured or dried in an oven where the oven air temperature exceeds 90°C (194°F).

Binders means organic materials and resins which do not contain VOM's.

Bituminous coatings means black or brownish coating materials which are soluble in carbon disulfide, which consist mainly of hydrocarbons, and which are obtained from natural deposits or as residues from the distillation of crude oils or of low grades of coal.

Brush or wipe coatings means a manual method of applying a coating using a brush, cloth, or similar object.

Bulk gasoline plant means a gasoline storage and distribution facility with an average throughput of 76,000 l (20,000 gal) or less on a 30-day rolling average that distributes gasoline to gasoline dispensing facilities.

Can means any metal container, with or without a top, cover, spout or handles, into which solid or liquid materials are packaged.

Can coating means any coating applied on a single walled container

that is manufactured from metal sheets thinner than 29 gauge (0.0141 in.).

Can coating facility means a facility that includes one or more can coating line(s).

Can coating line means a coating line in which any protective, decorative, or functional coating is applied onto the surface of cans or can components.

Capture means the containment or recovery of emissions from a process for direction into a duct which may be exhausted through a stack of sent to a control device. The overall abatement of emissions from a process with an add-on control device is a function both of the capture efficiency and of the control device.

Capture device means a hood, enclosed room floor sweep or other means of collecting solvent or other pollutants into a duct. The pollutant can then be directed to a pollution control device such as an afterburner or carbon adsorber. Sometimes the term is used loosely to include the control device.

Capture efficiency means the fraction of all VOM generated by a process that are directed to an abatement or recovery device.

Capture system means all equipment (including, but not limited to, hoods, ducts, fans, ovens, dryers, etc.) used to contain, collect and transport an air pollutant to a control device.

Clean Air Act means the Clean Air Act of 1963, as amended, including the Clean Air Act Amendments of 1977, (42 U.S.C. 7401 et seq.).

Clear coating means coatings that lack color and opacity or are transparent using the undercoat as a reflectant base or undertone color.

Clear topcoat means the final coating which contains binders, but not opaque pigments, and is specifically formulated to form a transparent or translucent solid protective film.

Closed vent system means a system that is not open to the atmosphere and is composed of piping, connections, and, if necessary, flow inducing devices that transport gas or vapor from an emission source to a control device.

Coating means a material applied onto or impregnated into a substrate for protective, decorative, or functional purposes. Such materials include, but are not limited to, paints, varnishes, sealers, adhesives, thinners, diluents, and inks.

Coating applicator means equipment used to apply a coating.

Coating line means an operation consisting of a series of one or more coating applicators and any associated flash-off areas, drying areas, and ovens wherein a surface coating is applied, dried, or cured. (It is not necessary for

an operation to have an oven, or flash-off area, or drying area to be included in this definition.)

Coating plant means any plant that contains one or more coating line(s).

Coil means any flat metal sheet or strip that is rolled or wound in concentric rings.

Coil coating means any coating applied on any flat metal sheet or strip that comes in rolls or coils.

Coil coating facility means a facility that includes one or more coil coating line(s).

Coil coating line means a coating line in which any protective, decorative or functional coating is applied onto the surface of flat metal sheets, strips, rolls, or coils for industrial or commercial use.

Cold cleaning means the process of cleaning and removing soils from surfaces by spraying, brushing, flushing, or immersion while maintaining the organic solvent below its boiling point. Wipe cleaning is not included in this definition.

Component means, with respect to synthetic organic chemical and polymer manufacturing equipment, and petroleum refining and related industries, any piece of equipment which has the potential to leak VOM including, but not limited to, pump seals, compressor seals, seal oil degassing vents, pipeline valves, pressure relief devices, process drains, and open ended pipes. This definition excludes valves which are not externally regulated, flanges, and equipment in heavy liquid service. For purposes of paragraph (i) of this section, this definition also excludes bleed ports of gear pumps in polymer service.

Concrete curing compounds means any coating applied to freshly poured concrete to retard the evaporation of water.

Condensate means volatile organic liquid separated from its associated gases, which condenses due to changes in the temperature or pressure and remains liquid at standard conditions.

Continuous process means, with respect to polystyrene resin, a method of manufacture in which the styrene raw material is delivered on a continuous basis to the reactor in which the styrene is polymerized to polystyrene.

Control device means equipment (such as an afterburner or adsorber) used to remove or prevent the emission of air pollutants from a contaminated exhaust stream.

Control device efficiency means the ratio of pollution prevented by a control device and the pollution introduced to the control device, expressed as a percentage.

Conveyorized degreasing means the continuous process of cleaning and removing soils from surfaces utilizing either cold or vaporized solvents.

Crude oil means a naturally occurring mixture which consists of hydrocarbons and sulfur, nitrogen, or oxygen derivatives of hydrocarbons and which is a liquid at standard conditions.

Crude oil gathering means the transportation of crude oil or condensate after custody transfer between a production facility and a reception point.

Custody transfer means the transfer of produced petroleum and/or condensate after processing and/or treating in the producing operations, from storage tanks or automatic transfer facilities to pipelines or any other forms of transportation.

Daily-weighted average VOM content means the average VOM content of two or more coatings as applied on a coating line during any day, taking into account the fraction of total coating volume that each coating represents, as calculated with the following equation:

$$VOM_w = \frac{\sum_{i=1}^n V_i C_i}{V_T}$$

where:

VOM_w = The average VOM content of two or more coatings as applied each day on a coating line in units of kg VOM/l (lbs VOM/gal) of coating (minus water and any compounds which are specifically exempted from the definition of VOM).

n = The number of different coatings as applied each day on a coating line.

V_i = The volume of each coating (minus water and any compounds which are specifically exempted from the definition of VOM) as applied each day on a coating line in units of 1 (gal).

C_i = The VOM content of each coating as applied each day on a coating line in units of kg VOM/l (lbs VOM/gal) of coating (minus water and any compounds which are specifically exempted from the definition of VOM), and

V_T = The total volume of all coatings (minus water and any compounds which are specifically exempted from the definition of VOM) as applied each day on a coating line in units of 1 (gal).

Day means the consecutive 24 hours beginning at 12:00 a.m. (midnight) local time.

Degreaser means any equipment or system used in solvent cleaning.

Delivery vessel means any tank truck or trailer equipped with a storage tank that is used for the transport of gasoline to a stationary storage tank at a gasoline

dispensing facility, bulk gasoline plant, or bulk gasoline terminal.

Dip coating means a method of applying coatings in which the part is submerged in a tank filled with the coating.

Electrostatic bell or disc spray means an electrostatic spray coating method in which a rapidly-spinning bell- or disc-shaped applicator is used to create a fine mist and apply the coating with high transfer efficiency.

Electrostatic spray means a spray coating method in which opposite electrical charges are applied to the substrate and the coating. The coating is attracted to the object due to the electrostatic potential between them.

Emission source and source mean any facility from which VOM is emitted or capable of being emitted into the atmosphere.

Enamel means a coating that cures by chemical cross-linking of its base resin. Enamels can be distinguished from lacquers because enamels are not readily resolvable in their original solvent.

Enclose means to cover any VOL surface that is exposed to the atmosphere.

End sealing compound coat means a compound applied to can ends which functions as a gasket when the end is assembled onto the can.

Excessive release means a discharge of more than 295 g (0.65 lbs) of mercaptans and/or hydrogen sulfide into the atmosphere in any 5-minute period.

Exterior base coat means a coating applied to the exterior of a can body, or flat sheet to provide protection to the metal or to provide background for any lithographic or printing operation.

Exterior end coat means a coating applied to the exterior end of a can to provide protection to the metal.

External-floating roof means a cover over an open top storage tank consisting of a double deck or pontoon single deck which rests upon and is supported by the volatile organic liquid being contained and is equipped with a closure seal or seals to close the space between the roof edge and tank shell.

Extreme environmental conditions means exposure to any or all of the following: ambient weather conditions; temperatures consistently above 95 °C (203 °F); detergents; abrasive and scouring agents; solvents; or corrosive atmospheres.

Extreme performance coating means any coating which during intended use is exposed to extreme environmental conditions.

Fabric coating means any coating applied on textile fabric. Fabric coating

includes the application of coatings by impregnation.

Fabric coating facility means a facility that includes one or more fabric coating lines.

Fabric coating line means a coating line in which any protective, decorative, or functional coating or reinforcing material is applied on or impregnated into a textile fabric.

Federally enforceable means all limitations and conditions which are enforceable by the Administrator including those requirements developed pursuant to 40 CFR parts 60 and 61; requirements within any applicable implementation plan; and any permit requirements established pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR part 51 subpart I and 40 CFR 51.166.

Final repair coat means the repainting of any topcoat which is damaged during vehicle assembly.

Firebox means the chamber or compartment of a boiler or furnace in which materials are burned, but not the combustion chamber or afterburner of an incinerator.

Fixed-roof tank means a cylindrical shell with a permanently affixed roof.

Flexographic printing means the application of words, designs, and pictures to a substrate by means of a roll printing technique in which the pattern to be applied is raised above the printing roll and the image carrier is made of elastomeric materials.

Flexographic printing line means a printing line in which each roll printer uses a roll with raised areas for applying an image such as words, designs, or pictures to a substrate. The image carrier on the roll is made of rubber or other elastomeric material.

Floating roof means a roof on a stationary tank, reservoir, or other container which moves vertically upon change in volume of the stored material.

Fountain solution means the solution which is applied to the image plate to maintain hydrophilic properties of the non-image areas.

Fuel combustion emission source means any furnace, boiler, or similar equipment used for the primary purpose of producing heat or power by indirect heat transfer.

Fuel gas system means a system for collection of refinery fuel gas including, but not limited to, piping for collecting tail gas from various process units, mixing drums and controls, and distribution piping.

Gas/gas method means either of two methods for determining capture which rely only on gas phase measurements. The first method requires construction of a temporary total enclosure (TTE) to

ensure that all would-be fugitive emissions are measured. The second method uses the building or room which houses the facility as an enclosure. The second method requires that all other VOM sources within the room be shut down while the test is performed, but all fans and blowers within the room must be operated according to normal procedures.

Gas service means that the component contains process fluid that is in the gaseous state at operating conditions.

Gasoline means any petroleum distillate or petroleum distillate/alcohol blend having a Reid vapor pressure of 27.6 kPa or greater which is used as a fuel for internal combustion engines.

Gasoline dispensing facility means any site where gasoline is transferred from a stationary storage tank to a motor vehicle gasoline tank used to provide fuel to the engine of that motor vehicle.

Gross vehicle weight means the manufacturer's gross weight rating for the individual vehicle.

Gross vehicle weight rating means the value specified by the manufacturer as the maximum design loaded weight of a single vehicle.

Heated airless spray means an airless spray coating method in which the coating is heated just prior to application.

Heatset means a class of web-offset lithography which requires a heated dryer to solidify the printing inks.

Heatset-web-offset lithographic printing line means a lithographic printing line in which a blanket cylinder is used to transfer ink from a plate cylinder to a substrate continuously fed from a roll or an extension process and an oven is used to solidify the printing inks.

Heavy liquid means liquid with a true vapor pressure of less than 0.3 kPa (0.04 psi) at 294.3 K (70 °F) established in a standard reference test or as determined by ASTM method D2879-86 (incorporated by reference as specified in 40 CFR 52.742); or which has 0.1 Reid Vapor Pressure as determined by ASTM method D323-82 (incorporated by reference as specified in 40 CFR 52.742); or which when distilled requires a temperature of 421.95 K (300 °F) or greater to recover 10 percent of the liquid as determined by ASTM method D86-82 (incorporated by reference as specified in 40 CFR 52.742).

Heavy off-highway vehicle products means, for the purpose of paragraph (e) of this section, heavy construction, mining, farming, or material handling equipment; heavy industrial engines;

diesel-electric locomotives and associated power generation equipment; and the components of such equipment or engines.

Heavy off-highway vehicle products coating facility means a facility that includes one or more heavy off-highway vehicle products coating line(s).

Heavy off-highway vehicle products coating line means a coating line in which any protective, decorative, or functional coating is applied onto the surface of heavy off-highway vehicle products.

High temperature aluminum coating means a coating that is certified to withstand a temperature of 537.8 °C (1000 °F) for 24 hours.

Hood means a partial enclosure or canopy for capturing and exhausting, by means of a draft, the organic vapors or other fumes rising from a coating process or other source.

Hood capture efficiency means the emissions from a process which are captured by the hood and directed into a control device, expressed as a percentage of all emissions.

Hot well means the reservoir of a condensing unit receiving the condensate from a barometric condenser.

Hour means a block period of 60 minutes (e.g., 1 a.m. to 2 a.m.).

In vacuum service means, for the purpose of paragraph (i) of this section, equipment which is operating at an internal pressure that is at least 5 kPa (0.73 psia) below ambient pressure.

In-process tank means a container used for mixing, blending, heating, reacting, holding, crystallizing, evaporating or cleaning operations in the manufacture of pharmaceuticals.

Incinerator means a combustion apparatus in which refuse is burned.

Indirect heat transfer means transfer of heat in such a way that the source of heat does not come into direct contact with process materials.

Ink means a coating used in printing, impressing, or transferring an image onto a substrate.

Interior body spray coat means a coating applied by spray to the interior of a can body.

Internal-floating roof means a cover or roof in a fixed-roof tank which rests upon and is supported by the volatile organic liquid being contained and is equipped with a closure seal or seals to close the space between the roof edge and tank shell.

Lacquers means any clear wood finishes formulated with nitrocellulose or synthetic resins to dry by evaporation without chemical reaction, including clear lacquer sanding sealers.

Large appliance means any residential and commercial washers, dryers, ranges, refrigerators, freezers, water heaters, dish washers, trash compactors, air conditioners, and other similar products.

Large appliance coating means any coating applied to the component metal parts (including, but not limited to, doors, cases, lids, panels, and interior support parts) of residential and commercial washers, dryers, ranges, refrigerators, freezers, water heaters, dish washers, trash compactors, air conditioners, and other similar products.

Large appliance coating facility means a facility that includes one or more large appliance coating line(s).

Large appliance coating line means a coating line in which any protective, decorative, or functional coating is applied onto the surface of large appliances.

Light liquid means VOM in the liquid state which is not defined as heavy liquid.

Light-duty truck means any motor vehicle rated at 3,850 kg gross vehicle weight or less, designed mainly to transport property.

Liquid/gas method means either of two methods for determining capture which require both gas phase and liquid phase measurements and analysis. The first method requires construction of a TTE. The second method uses the building or room which houses the facility as an enclosure. The second method requires that all other VOM sources within the room be shut down while the test is performed, but all fans and blowers within the room must be operated according to normal procedures.

Liquid service means that the equipment or component contains process fluid that is in a liquid state at operating conditions.

Lithographic printing line means a printing line, except that the substrate is not necessarily fed from an unwinding roll, in which each roll printer uses a roll where both the image and non-image areas are essentially in the same plane (planographic).

Magnet wire means aluminum or copper wire formed into an electromagnetic coil.

Magnet wire coating means any coating or electrically insulating varnish or enamel applied to magnet wire.

Magnet wire coating facility means a facility that includes one or more magnet wire coating line(s).

Magnet wire coating line means a coating line in which any protective, decorative, or functional coating is applied onto the surface of a magnet wire.

Malfunction means any sudden and unavoidable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner. Failures that are caused entirely or in part by poor maintenance, careless operation, or any other preventable upset condition or preventable equipment breakdown shall not be considered malfunctions.

Manufacturing process means a method whereby a process emission source or series of process emission sources is used to convert raw materials, feed stocks, subassemblies, or other components into a product, either for sale or for use as a component in a subsequent manufacturing process.

Maximum theoretical emissions means the quantity of volatile organic material emissions that theoretically could be emitted by a stationary source before add-on controls based on the design capacity or maximum production capacity of the source and 8760 hours per year. The design capacity or maximum production capacity includes use of coating(s) or ink(s) with the highest volatile organic material content actually used in practice by the source.

Metal furniture means a furniture piece including, but not limited to, tables, chairs, waste baskets, beds, desks, lockers, benches, shelving, file cabinets, lamps, and room dividers.

Metal furniture coating means any non-adhesive coating applied to any furniture piece made of metal or any metal part which is or will be assembled with other metal, wood, fabric, plastic or glass parts to form a furniture piece including, but not limited to, tables, chairs, waste baskets, beds, desks, lockers, benches, shelving, file cabinets, lamps, and room dividers. This definition shall not apply to any coating line coating miscellaneous metal parts or products.

Metal furniture coating facility means a facility that includes one or more metal furniture coating line(s).

Metal furniture coating line means a coating line in which any protective, decorative, or functional coating is applied onto the surface of metal furniture.

Metallic shoe-type seal means a primary or secondary seal constructed of metal sheets (shoes) which are joined together to form a ring, springs, or levers which attach the shoes to the floating roof and hold the shoes against the tank wall, and a coated fabric which is suspended from the shoes to the floating roof.

Miscellaneous fabricated product manufacturing process means:

(A) A manufacturing process involving one or more of the following applications, including any drying and curing of formulations, and capable of emitting VOM:

- (1) Adhesives to fabricate or assemble components or products.
- (2) Asphalt solutions to paper or fiberboard.
- (3) Asphalt to paper or felt.
- (4) Coatings or dye to leather.
- (5) Coatings to plastic.
- (6) Coatings to rubber or glass.
- (7) Disinfectant material to manufactured items.
- (8) Plastic foam scrap or "fluff" from the manufacture of foam containers and packaging material to form resin pallets.
- (9) Resin solutions to fiber substances.
- (10) Viscose solutions for food casings.

(B) The storage and handling of formulations associated with the process described above, and the use and handling of organic liquids and other substances for clean-up operations associated with the process described in this definition.

Miscellaneous formulation manufacturing process means:

(A) A manufacturing process which compounds one or more of the following and is capable of emitting VOM:

- (1) Adhesives.
- (2) Asphalt solutions.
- (3) Caulks, sealants, or waterproofing agents.
- (4) Coatings, other than paint and ink.
- (5) Concrete curing compounds.
- (6) Dyes.
- (7) Friction materials and compounds.
- (8) Resin solutions.
- (9) Rubber solutions.
- (10) Viscose solutions.

(B) The storage and handling of formulations associated with the process described above, and the use and handling of organic liquids and other substances for clean-up operations associated with the process described in this definition.

Miscellaneous metal parts or products means any metal part or metal product, even if attached to or combined with a nonmetal part or product, except cans, coils, metal furniture, large appliances, magnet wire, automobiles, ships, and airplane bodies.

Miscellaneous metal parts and products coating means any coating applied to any metal part or metal product, even if attached to or combined with a nonmetal part or product, except cans, coils, metal furniture, large appliances, and magnet wire. Prime coat, prime surfacer coat, topcoat, and final repair coat for automobiles and light-duty trucks are not miscellaneous metal parts and products coatings. However, underbody anti-chip (e.g.,

underbody plastisol) automobile, and light-duty truck coatings are miscellaneous metal parts and products coatings. Also, automobile or light-duty truck refinishing coatings, coatings applied to the exterior of marine vessels, coatings applied to the exterior of airplanes, and the customized topcoating of automobiles and trucks if production is less than 35 vehicles per day are not miscellaneous metal parts and products coatings.

Miscellaneous metal parts or products coating facility means a facility that includes one or more miscellaneous metal parts or products coating lines.

Miscellaneous metal parts or products coating line means a coating line in which any protective, decorative, or functional coating is applied onto the surface of miscellaneous metal parts or products.

Miscellaneous organic chemical manufacturing process means:

(A) A manufacturing process which produces by chemical reaction, one or more of the following organic compounds or mixtures of organic compounds and which is capable of emitting VOM:

- (1) Chemicals listed in appendix A of this section.
- (2) Chlorinated and sulfonated compounds.
- (3) Cosmetic, detergent, soap, or surfactant intermediaries or specialties and products.
- (4) Disinfectants.
- (5) Food additives.
- (6) Oil and petroleum product additives.
- (7) Plasticizers.
- (8) Resins or polymers.
- (9) Rubber additives.
- (10) Sweeteners.
- (11) Varnishes.

(B) The storage and handling of formulations associated with the process described above and the use and handling of organic liquids and other substances for clean-up operations associated with the process described in this definition.

Monitor means to measure and record.

Multiple package coating means a coating made from more than one different ingredient which must be mixed prior to using and has a limited pot life due to the chemical reaction which occurs upon mixing.

Offset means, with respect to printing and publishing operations, use of a blanket cylinder to transfer ink from the plate cylinder to the surface to be printed.

Opaque stains means all stains that are not semi-transparent stains.

Open top vapor depressing means the batch process of cleaning and removing soils from surfaces by condensing hot solvent vapor on the colder metal parts.

Open-ended valve means any valve, except pressure relief devices, having one side of the valve in contact with process fluid and one side open to the atmosphere, either directly or through open piping.

Organic compound means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate.

Organic material means any chemical compound of carbon including diluents and thinners which are liquids at standard conditions and which are used as solvents, viscosity reducers, or cleaning agents, but excluding methane, carbon monoxide, carbon dioxide, carbonic acid, metallic carbonic acid, metallic carbide, metallic carbonates, and ammonium carbonate.

Organic vapor means the gaseous phase of an organic material or a mixture of organic materials present in the atmosphere.

Oven means a chamber within which heat is used for one or more of the following purposes: Dry, bake, cure, or polymerize a coating or ink.

Overall control means the product of the capture efficiency and the control device efficiency.

Overvarnish means a transparent coating applied directly over ink or coating.

Owner or operator means any person who owns, operates, leases, controls, or supervises an emission source or air pollution control equipment.

Packaging rotogravure printing means rotogravure printing upon paper, paper board, metal foil, plastic film, and other substrates, which are, in subsequent operations, formed into packaging products or labels for articles to be sold.

Packaging rotogravure printing line means a rotogravure printing line in which surface coatings are applied to paper, paperboard, foil, film, or other substrates which are to be used to produce containers, packaging products, or labels for articles.

Paint manufacturing plant means a plant that mixes, blends, or compounds enamels, lacquers, sealers, shellacs, stains, varnishes, or pigmented surface coatings.

Paper coating means any coating applied on paper, plastic film, or metallic foil to make certain products, including (but not limited to) adhesive tapes and labels, book covers, post cards, office copier paper, drafting paper, or pressure sensitive tapes. Paper coating includes the application of coatings by impregnation and/or saturation.

Paper coating facility means a facility that includes one or more paper coating lines.

Paper coating line means a coating line in which any protective, decorative, or functional coating is applied on, saturated into, or impregnated into paper, plastic film, or metallic foil to make certain products, including (but not limited to) adhesive tapes and labels, book covers, post cards, office copier paper, drafting paper, and pressure sensitive tapes.

Parts per million (volume) means a volume/volume ratio which expresses the volumetric concentration of gaseous air contaminant in a million unit volume of gas.

Person means any individual, corporation, partnership, association, State, municipality, political subdivision of a State; any agency, department, or instrumentality of the United States; and any officer, agent, or employee thereof.

Petroleum means the crude oil removed from the earth and the oils derived from tar sands, shale, and coal.

Petroleum refinery means any facility engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, lubricants, or other products through distillation of petroleum, or through redistillation, cracking, or reforming of unfinished petroleum derivatives.

Pharmaceutical means any compound or mixture, other than food, used in the prevention, diagnosis, alleviation, treatment, or cure of disease in man and animal.

Pharmaceutical coating operation means a device in which a coating is applied to a pharmaceutical, including air drying or curing of the coating.

Pigmented coatings means opaque coatings containing binders and colored pigments which are formulated to conceal the wood surface either as an undercoat or topcoat.

Plant means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control), except the activities of any marine vessel. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., which have the same two-digit code) as described in the "Standard Industrial Classification Manual, 1987" (incorporated by reference as specified in 40 CFR 52.742).

Plasticizers means a substance added to a polymer composition to soften and add flexibility to the product.

Prime coat means the first of two or more coatings applied to a surface.

Prime surfacer coat means a coating used to touch up areas on the surface of automobile or light-duty truck bodies not adequately covered by the prime coat before application of the top coat. The prime surfacer coat is applied between the prime coat and topcoat. An anti-chip coating applied to main body parts (e.g., rocker panels, bottom of doors and fenders, and leading edge of roof) is a prime surfacer coat.

Primers means any coatings formulated and applied to substrates to provide a firm bond between the substrate and subsequent coats.

Printing means the application of words, designs, and pictures to a substrate using ink.

Printing line means an operation consisting of a series of one or more roll printers and any associated roll coaters, drying areas, and ovens wherein one or more coatings are applied, dried, and/or cured.

Process means any stationary emission source other than a fuel combustion emission source or an incinerator.

Production equipment exhaust system means a system for collecting and directing into the atmosphere emissions of volatile organic material from reactors, centrifuges, and other process emission sources.

Publication rotogravure printing line means a rotogravure printing line in which coatings are applied to paper which is subsequently formed into books, magazines, catalogues, brochures, directories, newspaper supplements, or other types of printed material.

Reactor means a vat, vessel, or other device in which chemical reactions take place.

Refiner means any person who owns, leases operates, controls, or supervises a refinery.

Refinery unit, process unit or unit means a set of components which are a part of a basic process operation such as distillation, hydrotreating, cracking, or reforming of hydrocarbons.

Refrigerated condenser means a surface condenser in which the coolant supplied to the condenser has been cooled by a mechanical device, other than by a cooling tower or evaporative spray cooling, such as refrigeration unit or steam chiller unit.

Repair coatings means coatings used to correct imperfections or damage to furniture surface.

Repaired means, for the purpose of paragraph (i) of this section, that equipment component has been

adjusted, or otherwise altered, to eliminate a leak.

Roll coater means an apparatus in which a uniform layer of coating is applied by means of one or more rolls across the entire width of a moving substrate.

Roll printer means an apparatus used in the application of words, designs, or pictures to a substrate, usually by means of one or more rolls each with only partial coverage.

Roll printing means the application of words, designs, and pictures to a substrate usually by means of a series of hard rubber or metal rolls each with only partial coverage.

Roller coating means a method of applying a coating to a sheet or strip in which the coating is transferred by a roller or series of rollers.

Rotogravure printing means the application of words, designs, and pictures to a substrate by means of a roll printing technique in which the pattern to be applied is recessed relative to the non-image area.

Rotogravure printing line means a printing line in which each roll printer uses a roll with recessed areas for applying an image to a substrate.

Safety relief valve means a valve which is normally closed and which is designed to open in order to relieve excessive pressures within a vessel or pipe.

Sanding sealers means any coatings formulated for and applied to bare wood for sanding and to seal the wood for subsequent application of varnish. To be considered a sanding sealer a coating must be clearly labelled as such.

Sealer means a coating containing binders which seals wood prior to the application of the subsequent coatings.

Semi-transparent stains means stains containing dyes or semi-transparent pigments which are formulated to enhance wood grain and change the color of the surface but not to conceal the surface, including, but not limited to, sap stain, toner, non-grain raising stains, pad stain, or spatter stain.

Set of safety relief valves means one or more safety relief valves designed to open in order to relieve excessive pressures in the same vessel or pipe.

Sheet basecoat means a coating applied to metal when the metal is in sheet form to serve as either the exterior or interior of a can for either two-piece or three-piece cans.

Side-seam spray coat means a coating applied to the seam of a three-piece can.

Single coat means one coating application applied to a metal surface.

Solvent means a liquid substance that is used to dissolve or dilute another substance.

Solvent cleaning means the process of cleaning soils from surfaces by cold cleaning, open top vapor degreasing, or conveyORIZED degreasing.

Specified air contaminant means any air contaminant as to which this Section contains emission standards or other specific limitations.

Splash loading means a method of loading a tank, railroad tank car, tank truck, or trailer by use of other than a submerged loading pipe.

Standard conditions means a temperature of 70 °F and a pressure of 14.7 psia.

Standard cubic foot (scf) means the volume of one cubic foot of gas at standard conditions.

Standard Industrial Classification Manual means the Standard Industrial Classification Manual (1987), Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (incorporated by reference as specified in 40 CFR 52.742).

Start-up means the setting in operation of an emission source for any purpose.

Stationary emission source and **Stationary source** mean an emission source which is not self-propelled.

Storage tank or storage vessel means any stationary tank, reservoir or container used for the storage of VOL's.

Submerged loading pipe means any discharge pipe or nozzle which meets either of the following conditions:

(A) Where the tank is filled from the top, the end of the discharge pipe or nozzle must be totally submerged when the liquid level is 15 cm (6 in.) above the bottom of the tank.

(B) Where the tank is filled from the side, the discharge pipe or nozzle must be totally submerged when the liquid level is 46 cm (18 in.) above the bottom of the tank.

Substrate means the surface onto which a coating is applied or into which a coating is impregnated.

Surface condenser means a device which removes a substance from a gas stream by reducing the temperature of the stream, without direct contact between the coolant and the stream.

Tablet coating operation means a pharmaceutical coating operation in which tablets are coated.

Thirty-day rolling average means any value arithmetically averaged over any consecutive thirty-days.

Three-piece can means a can which is made from a rectangular sheet and two circular ends.

Topcoat means a coating applied in a multiple coat operation other than prime

coat, final repair coat, or prime surfacer coat.

Topcoat operation means all topcoat spray booths, flash-off areas, and bake ovens at a facility which are used to apply, dry, or cure the final coatings (except final off-line repair) on components of automobile or light-duty truck bodies.

Transfer efficiency means the ratio of the amount of coating solids deposited onto a part or product to the total amount of coating solids used.

True vapor pressure means the equilibrium partial pressure exerted by a volatile organic liquid as determined in accordance with methods described in American Petroleum Institute Bulletin 2517, "Evaporation Loss From Floating Roof Tanks," second edition, February 1980 (incorporated by reference as specified in 40 CFR 52.742).

Two-piece can means a can which is drawn from a shallow cup and requires only one end to be attached.

Undercoaters means any coatings formulated for and applied to substrates to provide a smooth surface for subsequent coats.

Unregulated safety relief valve means a safety relief valve which cannot be actuated by a means other than high pressure in the pipe or vessel which it protects.

Vacuum producing system means any reciprocating, rotary, or centrifugal blower or compressor or any jet ejector or device that creates suction from a pressure below atmospheric and discharges against a greater pressure.

Valves not externally regulated means valves that have no external controls, such as in-line check valves.

Vapor balance system means any combination of pipes or hoses which creates a closed system between the vapor spaces of an unloading tank and a receiving tank such that vapors displaced from the receiving tank are transferred to the tank being unloaded.

Vapor collection system means all piping, seals, hoses, connections, pressure-vacuum vents, and other possible sources between the gasoline delivery vessel and the vapor processing unit and/or the storage tanks and vapor holder.

Vapor control system means any system that limits or prevents release to the atmosphere of organic material in the vapors displaced from a tank during the transfer of gasoline.

Vapor recovery system means a vapor gathering system capable of collecting all VOM vapors and gases discharged from the storage tank and a vapor disposal system capable of processing such VOM vapors and gases so as to

prevent their emission to the atmosphere.

Vehicle means a device by which any person or property may be propelled, moved, or drawn upon a highway, excepting a device moved exclusively by human power or used exclusively upon stationary rails or tracks.

Vinyl coating means any topcoat or printing ink applied to vinyl coated fabric or vinyl sheets. Vinyl coating does not include plastisols.

Vinyl coating facility means a facility that includes one or more vinyl coating line(s).

Vinyl coating line means a coating line in which any protective, decorative or functional coating is applied onto vinyl coated fabric or vinyl sheets.

Volatile organic liquid means any substance which is liquid at storage conditions and which contains volatile organic compounds.

Volatile organic material (VOM) or volatile organic compound (VOC) means any organic compound which participates in atmospheric photochemical reactions. This includes any organic compound other than the following compounds: methane, ethane, methyl chloroform (1,1,1-trichloroethane), CFC-113 (trichlorotrifluoroethane), methylene chloride (dichloromethane), CFC-11 (trichlorofluoromethane), CFC-12 (dichlorodifluoromethane), CFC-22 (chlorodifluoromethane), FC-23 (trifluoromethane), CFC-114 (dichlorotetrafluoroethane), CFC-115 (chloropentafluoroethane), HCFC-123 (dichlorotrifluoroethane), HFC-134a (tetrafluoroethane), HCFC-141b (dichlorofluoroethane) and HCFC-142b (chlorodifluoroethane). These compounds have been determined to have negligible photochemical reactivity. In addition, for the 3M Bedford Park facility in Cook County, the following compounds shall not be considered as volatile organic material or volatile organic compounds (and are, therefore, to be treated as water for the purpose of calculating the "less water" part of the coating or ink composition) for a period of time not to exceed one year after the date USEPA acts on 3M's petition, pending as of the date of promulgation of this rule, which seeks to have these compounds classified as exempt compounds: cyclic, branched, or linear, completely fluorinated alkanes, cyclic, branched, or linear, completely fluorinated ethers with no unsaturations, cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations, and sulfur containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon

and fluorine. For purposes of determining compliance with emission limits, VOC will be measured by the approved test methods. Where such a method also inadvertently measures compounds with negligible photochemical reactivity, an owner or operator may exclude these negligibly reactive compounds when determining compliance with an emissions standard.

Wash coat means a coating containing binders which seals wood surfaces, prevents undesired staining, and controls penetration.

Web means a substrate which is printed in continuous roll-fed presses.

Wood furniture means room furnishings including cabinets (kitchen, bath, and vanity), tables, chairs, beds, sofas, shutters, art objects, wood paneling, wood flooring, and any other coated furnishings made of wood, wood composition, or fabricated wood materials.

Wood furniture coating facility means a facility that includes one or more wood furniture coating line(s).

Wood furniture coating line means a coating line in which any protective, decorative, or functional coating is applied onto wood furniture.

Woodworking means the shaping, sawing, grinding, smoothing, polishing, and making into products of any form or shape of wood.

(4) *Testing methods and procedures*—
(i) Coatings, inks and fountain solutions. The following test methods and procedures shall be used to determine compliance of as applied coatings, inks, and fountain solutions with the limitations set forth in § 52.741.

(A) *Sampling*. Samples collected for analyses shall be one-liter taken into a one-liter container at a location and time such that the sample will be representative of the coating as applied (i.e., the sample shall include any dilution solvent or other VOM added during the manufacturing process). The container must be tightly sealed immediately after the sample is taken. Any solvent or other VOM added after the sample is taken must be measured and accounted for in the calculations in paragraph (a)(4)(i)(C) of this section. For multiple package coatings, separate samples of each component shall be obtained. A mixed sample shall not be obtained as it will cure in the container. Sampling procedures shall follow the guidelines presented in:

(1) ASTM D3925-81 (Reapproved 1985) Standard Practice for Sampling Liquid Paints and Related Pigment Coating. This practice is incorporated by reference as specified in 40 CFR 52.742.

(2) ASTM E300-86 Standard Practice for Sampling Industrial Chemicals. This

practice is incorporated by reference as specified in 40 CFR 52.742.

(B) *Analyses*. The applicable analytical methods specified below shall be used to determine the composition of coatings, inks, or fountain solutions as applied.

(1) Method 24 of 40 CFR part 60, appendix A, shall be used to determine the VOM content and density of coatings. If it is demonstrated to the satisfaction of the Administrator that plant coating formulation data are equivalent to Method 24 results, formulation data may be used. In the event of any inconsistency between a Method 24 test and a facility's formulation data, the Method 24 test will govern.

(2) Method 24A of 40 CFR part 60, appendix A, shall be used to determine the VOM content and density of rotogravure printing inks and related coatings. If it is demonstrated to the satisfaction of the Administrator that the plant coating formulation data are equivalent to Method 24A results, formulation data may be used. In the event of any inconsistency between a Method 24A test and a facility's formulation data, the Method 24A test will govern.

(3) The following ASTM methods are the analytical procedures for determining VOC:

(i) ASTM D1475-85: Standard Test Method for Density of Paint, Varnish, Lacquer and Related Products. This test method is incorporated by reference as specified in 40 CFR 52.742.

(ii) ASTM D2369-87: Standard Test Method for Volatile Content of Coatings. This test method is incorporated by reference as specified in 40 CFR 52.742.

(iii) ASTM D3792-88: Standard Test Method for Water Content of Water-reducible Paints by Direct Injection into a Gas Chromatograph. This test method is incorporated by reference as specified in 40 CFR 52.742.

(iv) ASTM D4017-81 (Reapproved 1987): Standard Test Method for Water in Paints and Paint Materials by the Karl Fischer Method. This test method is incorporated by reference as specified in 40 CFR 52.742.

(v) ASTM D4457-85: Standard Test Method for Determination of Dichloromethane and 1,1,1-Trichloroethane in Paints and Coatings by Direct Injection into a Gas Chromatograph. (The procedure delineated above can be used to develop protocols for any compounds specifically exempted from the definition of VOM.) This test method is incorporated by reference as specified in 40 CFR 52.742.

(vi) ASTM D2697-86: Standard Test Method for Volume Non-Volatile Matter in Clear or Pigmented Coatings. This test method is incorporated by reference as specified in 40 CFR 52.742.

(vii) ASTM D3980-87: Standard Practice for Interlaboratory Testing of Paint and

Related Materials. This practice is incorporated by reference as specified in 40 CFR 52.742.

(viii) ASTM E180-85: Standard Practice for Determining the Precision of ASTM Methods for Analysis of and Testing of Industrial Chemicals. This practice is incorporated by reference as specified in 40 CFR 52.742.

(ix) ASTM D2372-85: Standard Method of Separation of Vehicle from Solvent-reducible Paints. This method is incorporated by reference as specified in 40 CFR 52.742.

(4) Use of an adaptation to any of the analytical methods specified in paragraphs (a)(4)(i)(B)(1), (2) and (3) may be approved by the Administrator on a case-by-case basis. An owner or operator must submit sufficient documentation for the Administrator to find that the analytical methods specified in paragraphs (a)(4)(i)(B)(1), (2) and (3) will yield inaccurate results and that the proposed adaptation is appropriate.

(C) *Calculations*. Calculations for determining the VOM content, water content and the content of any compounds which are specifically exempted from the definition of VOM of coatings, inks and fountain solutions as applied shall follow the guidance provided in the following documents.

(1) "A Guide for Surface Coating Calculation" EPA-340/1-86-016 (which is available from the National Technical Information Services, 5285 Port Royal Road, Springfield, Virginia, 22161)

(2) "Procedures for Certifying Quantity of Volatile Organic Compounds Emitted by Paint, Ink and Other Coatings" (revised June 1986) EPA-450/3-84-019 (which is available from the National Technical Information Services, 5285 Port Royal Road, Springfield, Virginia, 22161)

(3) "A Guide for Graphic Arts Calculations" August 1988 EPA-340/1-88-003 (which is available from the National Technical Information Services, 5285 Port Royal Road, Springfield, Virginia, 22161)

(ii) *Automobile or light-duty truck test protocol*. The protocol for testing, including determining the transfer efficiency, of coating applicators at topcoat coating operations at an automobile assembly facility shall follow the procedure in: "Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck Topcoat Operations" December 1988 EPA-450/3-88-018 (which is available for purchase from the National Technical Information Services, 5285 Port Royal Road, Springfield, Virginia, 22161)

(iii) *Capture system efficiency test protocols*—(A) *Applicability*. The requirements of paragraphs (a)(4)(iii)(B) of this section shall apply to all VOM emitting processes employing capture equipment (e.g., hoods, ducts), except those cases noted below.

(1) If a source installs a permanent total enclosure (PTE) that meets USEPA specifications, and which directs all VOM to a control device, then the source is exempted from the requirements described in paragraph (B). The USEPA specifications to determine whether a structure is considered a PTE are given in Procedure T of appendix B of this section. In this instance, the capture efficiency is assumed to be 100 percent and the source is still required to measure control efficiency using appropriate test methods as specified in (a)(4)(iv) of this section.

(2) If a source uses a control device designed to collect and recover VOM (e.g., carbon adsorber), an explicit measurement of capture efficiency is not necessary provided that the conditions given below are met. The overall control of the system can be determined by directly comparing the input liquid VOM to the recovered liquid VOM. The general procedure for use in this situation is given in 40 CFR 60.433, with the following additional restrictions:

(i) The source must be able to equate solvent usage with solvent recovery on a 24-hour (daily) basis, rather than a 30-day weighted average, within 72 hours following the 24-hour period. In addition, one of the following two criteria must be met:

(ii) The solvent recovery system (i.e., capture and control system) must be dedicated to a single process line (e.g., one process line venting to a carbon adsorber system), or

(iii) If the solvent recovery system controls multiple process lines, then the source must be able to demonstrate that the overall control (i.e., the total recovered solvent VOM divided by the sum of liquid VOM input to all process lines venting to the control system) meets or exceeds the most stringent standard applicable for any process line venting to the control system.

(B) *Specific requirements*. The capture efficiency of a process line shall be measured using one of the four protocols given below. Any error margin associated with a test protocol may not be incorporated into the results of a capture efficiency test. If these techniques are not suitable for a particular process, then the source must present an alternative capture efficiency protocol and obtain approval for it by

the Administrator as a SIP or FIP revisions.

(1) *Gas/gas method using temporary total enclosure (TTE)*. The USEPA specifications to determine whether a temporary enclosure is considered a TTE are given in Procedure T of appendix B of this section. The capture efficiency equation to be used for this protocol is:

$$CE = Gw / (Gw + Fw)$$

where:

CE = capture efficiency, decimal fraction.

Gw = mass of VOM captured and delivered to control device using a TTE.

Fw = mass of fugitive VOM that escapes from a TTE.

Procedure G.2 contained in appendix B of this section is used to obtain Gw. Procedure F.1 in appendix B of this section is used to obtain Fw.

(2) *Liquid/gas method using TTE*. The USEPA specifications to determine whether a temporary enclosure is considered a TTE are given in Procedure T of appendix B of this section. The capture efficiency equation to be used for this protocol is:

$$CE = (L - F) / L$$

where:

CE = capture efficiency, decimal fraction.

L = mass of liquid VOM input to process.

Fw = mass of fugitive VOM that escapes from a TTE.

Procedure L contained in appendix B of this section is used to obtain L. Procedure F.1 in appendix B of this section is used to obtain Fw.

(3) *Gas/gas method using the building or room (building or room enclosure)* in which the affected source is located as the enclosure and in which "F" and "G" are measured while operating only the affected facility. All fans and blowers in the building or room must be operated as they would under normal production. The capture efficiency equation to be used for this protocol is:

$$CE = G / (G + F_b)$$

where:

CE = capture efficiency, decimal fraction.

G = mass of VOM captured and delivered to control device.

F_b = mass of fugitive VOM that escapes from building enclosure.

Procedure G.2 contained in appendix B of this section is used to obtain G. Procedure F.2 in appendix B of this section is used to obtain F_b.

(4) *Liquid/gas method using the building or room (building or room enclosure)* in which the affected source is located as the enclosure and in which "F" and "L" are measured while operating only the affected facility. All fans and blowers in the building or room must be operated as they would under normal production. The capture

efficiency equation to be used for this protocol is:

$$CE = (L - F_b) / L$$

where:

CE = capture efficiency, decimal fraction.

L = mass of liquid VOM input to process.

F_b = mass of fugitive VOM that escapes from building enclosure.

Procedure L contained in appendix B of this section is used to obtain L. Procedure F.2 in appendix B of this section is used to obtain F_b.

(C) *Recordkeeping and reporting*. (1) All affected facilities must maintain a copy of the capture efficiency protocol submitted to USEPA on file. All results of the appropriate test methods and capture efficiency protocols must be reported to USEPA within sixty (60) days of the test date. A copy of the results must be kept on file with the source for a period of three (3) years.

(2) If any changes are made to capture or control equipment, then the source is required to notify USEPA of these changes and a new test may be required by USEPA.

(3) The source must notify the Administrator 30 days prior to performing any capture efficiency or control test. At that time, the source must notify the Administrator which capture efficiency protocol and control device test methods will be used.

(4) Sources utilizing a PTE must demonstrate that this enclosure meets the requirement given in Procedure T (in appendix B of this section) for a PTE during any testing of their control device.

(5) Sources utilizing a TTE must demonstrate that their TTE meets the requirements given in Procedure T (in appendix B of this section) for a TTE during testing of their control device. The source must also provide documentation that the quality assurance criteria for a TTE have been achieved.

(iv) *Control device efficiency testing and monitoring*. (A) The control device efficiency shall be determined by simultaneously measuring the inlet and outlet gas phase VOM concentrations and gas volumetric flow rates in accordance with the gas phase test methods specified in paragraph (a)(4)(vi) of this section.

(B) Any owner or operator that uses an afterburner or carbon adsorber to comply with any paragraph of § 52.741 shall use USEPA approved continuous monitoring equipment which is installed, calibrated, maintained, and operated according to vendor specifications at all times the afterburner or carbon adsorber is in use. The continuous monitoring

equipment must monitor the following parameters:

(1) Combustion chamber temperature of each afterburner.

(2) Temperature rise across each catalytic afterburner bed or VOM concentration of exhaust.

(3) The VOM concentration of each carbon adsorption bed exhaust.

(v) *Overall efficiency.* (A) The overall efficiency of the emission control system shall be determined as the product of the capture system efficiency and the control device efficiency or by the liquid/liquid test protocol as specified in 40 CFR 60.433 (and revised by paragraph (a)(4)(iii)(A)(2) of this section for each solvent recovery system. In those cases in which the overall efficiency is being determined for an entire line, the capture efficiency used to calculate the product of the capture and control efficiency is the total capture efficiency over the entire line.

(B) For coating lines which are both chosen by the owner or operator to comply with paragraphs (e)(2)(ii), (e)(2)(iii), (e)(2)(iv), (e)(2)(v), or (e)(2)(vi) of this section by the alternative in paragraph (e)(2)(i)(B) of this section and meet the criteria allowing them to comply with paragraph (e)(2) of this section, the overall efficiency of the capture system and control device, as determined by the test methods and procedures specified in paragraphs (a)(4)(iii), (iv) and (v)(A) of this section, shall be no less than the equivalent overall efficiency which shall be calculated by the following equation:

$$E = [(VOM_a - VOM_l)/VOM_a] \times 100$$

Where:

E = Equivalent overall efficiency of the capture system and control device as a percentage.

VOM_a = Actual VOM content of a coating, or the daily-weighted average VOM content of two or more coatings (if more than one coating is used), as applied to the subject coating line as determined by the applicable test methods and procedures specified in paragraph (a)(4)(i) of this section in units of kg VOM/l (lb VOM/gal) of coating solids as applied.

VOM_l = The VOM emission limit specified in paragraph (e)(2)(i) or (ii) of this section in units of kg VOM/l (lb VOM/gal) of coating solids as applied.

(vi) *Volatile organic material gas phase source test methods.* The methods in 40 CFR part 60, appendix A, delineated below shall be used to determine control device efficiencies.

(A) 40 CFR part 60, appendix A, Method 18, 25 or 25A, as appropriate to the conditions at the site, shall be used to determine VOM concentration.

Method selection shall be based on consideration of the diversity of organic species present and their total concentration and on consideration of the potential presence of interfering gases. Except as indicated in paragraphs (a)(4)(vi)(A)(1) and (2) of this section, the test shall consist of three separate runs, each lasting a minimum of 60 min, unless the Administrator determines that process variables dictate shorter sampling times.

(1) When the method is to be used to determine the efficiency of a carbon adsorption system with a common exhaust stack for all the individual adsorber vessels, the test shall consist of three separate runs, each coinciding with one or more complete sequences through the adsorption cycles of all the individual adsorber vessels.

(2) When the method is to be used to determine the efficiency of a carbon adsorption system with individual exhaust stacks for each adsorber vessel, each adsorber vessel shall be tested individually. The test for each adsorber vessel shall consist of three separate runs. Each run shall coincide with one or more complete adsorption cycles.

(B) 40 CFR part 60, appendix A, Method 1 or 1A shall be used for sample and velocity traverses.

(C) 40 CFR part 60, appendix A, Method 2, 2A, 2C or 2D shall be used for velocity and volumetric flow rates.

(D) 40 CFR part 60, appendix A, Method 3 shall be used for gas analysis.

(E) 40 CFR part 60, appendix A, Method 4 shall be used for stack gas moisture.

(F) 40 CFR part 60, appendix A, Methods 2, 2A, 2C, 2D, 3 and 4 shall be performed, as applicable, at least twice during each test run.

(G) Use of an adaptation to any of the test methods specified in paragraphs (a)(4)(vi)(A), (B), (C), (D), (E), and (F) of this section may be approved by the Administrator on a case-by-case basis. An owner or operator must submit sufficient documentation for the Administrator to find that the test methods specified in paragraphs (a)(4)(vi)(A), (B), (C), (D), (E), and (F) of this section will yield inaccurate results and that the proposed adaptation is appropriate.

(vii) *Leak detection methods for volatile organic material.* Owners or operators required by the various subparts of this regulation to carry out a leak detection monitoring program shall comply with the following requirements:

(A) *Leak detection monitoring.* (1) Monitoring shall comply with 40 CFR part 60, appendix A, Method 21.

(2) The detection instrument shall meet the performance criteria of Method 21.

(3) The instrument shall be calibrated before use on each day of its use by the methods specified in Method 21.

(4) Calibration gases shall be:

(i) Zero air (less than 10 ppm of hydrocarbon in air); and

(ii) A mixture of methane or n-hexane and air at a concentration of approximately, but no less than, 10,000 ppm methane or n-hexane.

(5) The instrument probe shall be traversed around all potential leak interfaces as close to the interface as possible as described in Method 21.

(B) When equipment is tested for compliance with no detectable emissions as required, the test shall comply with the following requirements:

(1) The requirements of paragraphs (a)(4)(vii)(A)(1) through (vii)(A)(5) of this section shall apply.

(2) The background level shall be determined as set forth in Method 21.

(C) Leak detection tests shall be performed consistent with:

(1) "APTI Course SI 417 controlling Volatile Organic Compound Emissions from Leaking Process Equipment" EPA 450/2-82-015 (which is available for purchase from the National Technical Information Services, 5285 Port Royal Road, Springfield, Virginia, 22161)

(2) "Portable Instrument User's Manual for Monitoring VOC Sources" EPA-340/1-86-015 (which is available for purchase from the National Technical Information Services, 5285 Port Royal Road, Springfield, Virginia, 22161)

(3) "Protocols for Generating Unit-Specific Emission Estimates for Equipment Leaks of VOC and VHAP" EPA-450/3-88-010 (which is available for purchase from the National Technical Information Services, 5285 Port Royal Road, Springfield, Virginia, 22161)

(4) "Petroleum Refinery Enforcement Manual" EPA-340/1-80-008 (which is available for purchase from the National Technical Information Services, 5285 Port Royal Road, Springfield, Virginia, 22161)

(viii) *Bulk gasoline delivery system test protocol.* (A) The method for determining the emissions of gasoline from a vapor recovery system are delineated in 40 CFR part 60, subpart XX, § 60.503.

(B) Other tests shall be performed consistent with:

(1) "Inspection Manual for Control of Volatile Organic Emissions from Gasoline Marketing Operations: Appendix D" EPA-340/1-80-012 (which

is available for purchase from the National Technical Information Services, 5285 Port Royal Road, Springfield, Virginia, 22161)

(2) "Control of Hydrocarbons from Tank Truck Gasoline Loading Terminals: Appendix A" EPA-450/2-77-026 (which is available for purchase from the National Technical Information Services, 5285 Port Royal Road, Springfield, Virginia, 22161)

(5) *Compliance dates.* Compliance with the requirements of all rules is required by July 1, 1991, unless otherwise indicated by compliance dates contained in specific rules. This paragraph shall not operate to provide additional time for compliance under section 113(d) of the Act, 42 U.S.C. 7413(d), for sources subject to compliance upon promulgation.

(6) *Afterburners.* The operation of any natural gas fired afterburner and capture system used to comply with § 52.741 is not required during the period of November 1 of any year to April 1 of the following year provided that the operation of such devices is not required for purposes of occupational safety or health, or for the control of toxic substances, odor nuisances, or other regulated pollutants.

(7) *Exemptions, variances, and alternative means of control or compliance determinations.* Notwithstanding the provisions of any other paragraphs of this section, any exemptions, variances or alternatives to the control requirements, emission limitations, or test methods in the Illinois SIP or FIP can only be allowed if approved by the Administrator as a SIP or FIP revision.

(8) *Vapor pressure of volatile organic liquids.* (i) If the VOL consists of only a single compound, the vapor pressure shall be determined by ASTM Method D2879-86 (incorporated by reference as specified in 40 CFR 52.742) or the vapor pressure may be obtained from a published source such as: Boublik, T., V. Fried and E. Hala, "The Vapor Pressure of Pure Substances," Elsevier Scientific Publishing Co., New York (1973); Perry's Chemical Engineer's Handbook, McGraw-Hill Book Company (1984); CRC Handbook of Chemistry and Physics, Chemical Rubber Publishing Company (1986-87); and Lange's Handbook of Chemistry, John A. Dean, editor, McGraw-Hill Book Company (1985).

(ii) If the VOL is a mixture, the vapor pressure shall be determined by ASTM Method D2879-86 (incorporated by reference as specified in 40 CFR 52.742) or by the following equation:

$$P_{vol} = \sum_{i=1}^n P_i X_i$$

where:

P_{vol} = Total vapor pressure of the mixture,
 n = Number of components in the mixture,
 i = Subscript denoting an individual component,

P_i = Vapor pressure of a component determined in accordance with paragraph (a) of this section

X_i = Mole fraction of the component in the total mixture.

(9) *Vapor pressure of organic material or solvent.* (i) If the organic material or solvent consists of only a single compound, the vapor pressure shall be determined by ASTM Method D2879-86 (incorporated by reference as specified in 40 CFR 52.742) or the vapor pressure may be obtained from a published source such as: Boublik, T., V. Fried and E. Hala, "The Vapor Pressure of Pure Substances," Elsevier Scientific Publishing Co., New York (1973); Perry's Chemical Engineer's Handbook, McGraw-Hill Book Company (1984); CRC Handbook of Chemistry and Physics, Chemical Rubber Publishing Company (1986-87); and Lange's Handbook of Chemistry, John A. Dean, editor, McGraw-Hill Book Company (1985).

(ii) If the organic material or solvent is in a mixture made up of both organic material compounds and compounds which are not organic material, the vapor pressure shall be determined by the following equation:

$$P_{om} = \frac{\sum_{i=1}^n P_i X_i}{\sum_{i=1}^n X_i}$$

where:

P_{om} = Total vapor pressure of the portion of the mixture which is composed of organic material,

n = Number of organic material components in the mixture,

i = Subscript denoting an individual component,

P_i = Vapor pressure of an organic material component determined in accordance with paragraph (a) of this section,

X_i = Mole fraction of the organic material component of the total mixture.

(iii) If the organic material or solvent is in a mixture made up of only organic material compounds, the vapor pressure shall be determined by ASTM Method D2879-86 (incorporated by reference as specified in 40 CFR 52.742) or by the above equation.

(10) *Vapor pressure of volatile organic material.* (i) If the VOM consists of only a single compound, the vapor pressure shall be determined by ASTM Method

D2879-86 (incorporated by reference as specified in 40 CFR 52.742) or the vapor pressure may be obtained from a published source such as: Boublik, T., V. Fried and E. Hala, "The Vapor Pressure of Pure Substances," Elsevier Scientific Publishing Co., New York (1973); Perry's Chemical Engineer's Handbook, McGraw-Hill Book Company (1984); CRC Handbook of Chemistry and Physics, Chemical Rubber Publishing Company (1986-87); and Lange's Handbook of Chemistry, John A. Dean, editor, McGraw-Hill Book Company (1985).

(ii) If the VOM is in a mixture made up of both VOM compounds and compounds which are not VOM, the vapor pressure shall be determined by the following equation:

$$P_{vom} = \frac{\sum_{i=1}^n P_i X_i}{\sum_{i=1}^n X_i}$$

where:

P_{vom} = Total vapor pressure of the portion of the mixture which is composed of VOM,
 n = Number of VOM components in the mixture,

i = Subscript denoting an individual component,

P_i = Vapor pressure of a VOM component determined in accordance with paragraph (a) of this section,

X_i = Mole fraction of the VOM component of the total mixture.

(iii) If the VOM is in a mixture made up of only VOM compounds, the vapor pressure shall be determined by ASTM Method D2879-86 (incorporated by reference as specified in 40 CFR 52.742) or by the above equation.

(b)-(c) [Reserved]

(d) *Solvent cleaning—(1) Solvent cleaning in general.* The requirements of subpart E (sections 215.182-215.184) of 35 Ill. Adm. Code 215 (incorporated by reference as specified in 40 CFR 52.742) shall apply to all cold cleaning, open top vapor degreasing, and conveyorized degreasing operations.

Note: for Federal purposes, paragraph (d)(1) supersedes subpart E (section 215.181) of 35 Ill. Adm. Code 215.)

(2) *Compliance schedule.* Every owner or operator of an emission source which was previously exempt from the requirements of subpart E (sections 215.182-215.184) of 35 Ill. Adm. Code 215 (incorporated by reference as specified in 40 CFR 52.742) because it satisfied the criteria in either (d)(a)(i) or (d)(2)(ii) of this section, shall comply with the requirements of subpart E (sections 215.182-215.184) of 35 Ill. Adm. Code 215

(incorporated by reference as specified in 40 CFR 52.742) on and after July 1, 1991. A source which did not satisfy the criteria in either (d)(a)(i) or (d)(2)(ii) of this section, shall comply with the requirements of subpart E (sections 215.182-215.184) of 35 Ill. Adm. Code 215 (incorporated by reference as specified in 40 CFR 52.742) upon promulgation.

(i) If emissions of VOM exceed neither 6.8 kg (15 lbs) in any one day, nor 1.4 kg (3 lbs) in any one hour, or

(ii) If the source is used exclusively for chemical or physical analysis or for determination of product quality and commercial acceptance, provided that the operation of the source is not an integral part of the production process, the emissions of VOM from the source do not exceed 363 kg (800 lbs) in any calendar month, and the exemption had been approved in writing by the Illinois Environmental Protection Agency.

(3) *Test methods.* The following test methods shall be used to demonstrate compliance with subpart E (sections 215.182-215.184) of 35 Ill. Adm. Code 215

(incorporated by reference as specified in 40 CFR 52.742):

(i) Vapor pressures shall be determined by using the procedure specified in paragraph (a)(9) of this section.

(ii) Exhaust ventilation rates shall be determined by using the procedures specified in paragraph (a)(4)(vi)(C) of this section.

(iii) The performance of control devices shall be determined by using the procedures specified in paragraph (a)(4)(vi) of this section.

(e) *Coating operations—(1) Emission limitations for manufacturing plants.* (i) Except as provided in paragraph (e)(3) of this section, no owner or operator of a coating line shall apply at any time any coating in which the VOM content exceeds the following emission limitations for the specified coating. The following emission limitations are expressed in units of VOM per volume of coating (minus water and any compounds which are specifically exempted from the definition of VOM)

as applied at each coating applicator, except where noted. Compounds which are specifically exempted from the definition of VOM should be treated as water for the purpose of calculating the "less water" part of the coating composition. Compliance with this paragraph must be demonstrated through the applicable coating analysis test methods and procedures specified in paragraph (a)(4)(i) of this section and the recordkeeping and reporting requirements specified in paragraph (e)(6)(ii) of this section. As an alternative to compliance with this paragraph, the owner or operator of a coating line may meet the requirements of paragraph (e)(1)(ii) or paragraph (e)(2) of this section. The equation presented in paragraph (e)(1)(iii) of this section shall be used to calculate emission limitations for determining compliance by add-on controls, credits for transfer efficiency, emissions trades and cross-line averaging.

	kg/l	lb/gal
(A) Automobile or Light-Duty Truck Coating		
(1) Prime coat.....	0.14	(1.2)
(2) Prime surfacer coat.....	0.34	(2.8)
NOTE: The prime surfacer coat limitation is based upon a transfer efficiency of 30 percent. Transfer efficiency credits can only be allowed if approved by the Administrator as a SIP or FIP revision.		
(3) Topcoat.....	1.81	(15.1)
NOTE: The topcoat limitation is in units of kg (lbs) of VOM per 1 (gal) of coating solids deposited. Compliance with the limitation shall be based on the daily-weighted average VOM content from the entire topcoat operation (all topcoat spray booths, flash-off areas and bake ovens). Compliance shall be demonstrated in accordance with the topcoat protocol for automobiles and light-duty trucks referenced in paragraph (a)(4)(ii) of this section. Paragraph (e)(1)(ii) of this section does not apply to the topcoat limitation. At least 180 days prior to the initial compliance date, the owner or operator of a coating line subject to the topcoat limitation shall submit to the Administrator a detailed proposal specifying the method of demonstrating compliance with the protocol. The proposal shall include, at a minimum, a comprehensive plan (including a rationale) for determining the transfer efficiency at each booth through the use of in-plant, or pilot testing; the selection of coatings to be tested (for the purpose of determining transfer efficiency) including the rationale for coating groupings; and the method for determining the analytic VOM content of as applied coatings and the formulation solvent content of as applied coatings. Upon approval of the protocol by the Administrator, the source may proceed with the compliance demonstration.		
(4) Final repair coat.....	0.58	(4.8)
(B) Can Coating		
(1) Sheet basecoat and overvarnish.....	0.34	(2.6)
(2) Exterior basecoat and overvarnish.....	0.34	(2.8)
(3) Interior body spray coat.....	0.51	(4.2)
(4) Exterior end coat.....	0.51	(4.2)
(5) Side seam spray coat.....	0.66	(5.5)
(6) End sealing compound coat.....	0.44	(3.7)
(C) Paper Coating.....	0.35	(2.9)
NOTE: The paper coating limitation shall not apply to any owner or operator of any paper coating line on which printing is performed if the paper coating line complies with the emissions limitations in paragraph (h)(1) of this section: Printing and Publishing.		
(D) Coil Coating.....	0.31	(2.6)
(E) Fabric Coating.....	0.35	(2.9)
(F) Vinyl Coating.....	0.45	(3.6)
(G) Metal Furniture Coating.....	0.36	(3.0)
(H) Large Appliance Coating.....	0.34	(2.8)
NOTE: The limitation shall not apply to the use of quick-drying lacquers for repair of scratches and nicks that occur during assembly, provided that the volume of coating does not exceed 0.95 l (1 quart) in any one rolling eight-hour period.		
(I) Magnet Wire Coating.....	0.20	(1.7)
(J) Miscellaneous Metal Parts and Products Coating		
(1) Clear coating.....	0.52	(4.3)
(2) Air-dried coating.....	0.42	(3.5)
(3) Extreme performance coating.....	0.42	(3.5)
(4) All other coatings.....	0.36	(3.0)

	kg/l	lb/gal
(K) Heavy Off-Highway Vehicle Products Coating		
(1) Extreme performance prime coat	0.42	(3.5)
(2) Extreme performance top-coat (air dried)	0.42	(3.5)
(3) Final repair coat (air dried)	0.42	(3.5)

(4) All other coatings are subject to the emission limitations for miscellaneous metal parts and products coatings in paragraph (e)(1)(i)(J) of this section.

	kg/l	lb/gal
(L) Wood Furniture Coating		
(1) Clear topcoat	0.67	(5.6)
(2) Opaque stain	0.56	(4.7)
(3) Pigmented coat	0.60	(5.0)
(4) Repair coat	0.67	(5.6)
(5) Sealer	0.67	(5.6)
(6) Semi-transparent stain	0.79	(6.6)
(7) Wash coat	0.73	(6.1)

NOTE: An owner or operator of a wood furniture coating operation subject to this paragraph shall apply all coatings, with the exception of no more than 37.8 l (10 gal) of coating per day used for touch-up and repair operations, using one or more of the following application systems: airless spray application system, air-assisted airless spray application system, electrostatic spray application system, electrostatic bell or disc spray application system, heated airless spray application system, roller coating, brush or wipe coating application system, or dip coating application system.

	kg/l	lb/gal
(M) Existing Diesel-Electric Locomotive Coating Lines in Cook County		
(1) Extreme performance prime coat	0.42	(3.5)
(2) Extreme performance top-coat (air dried)	0.42	(3.5)
(3) Final repair coat (air dried)	0.42	(3.5)
(4) High-temperature aluminum coating	0.72	(6.0)
(5) All other coatings	0.36	(3.0)

(ii) *Daily-weighted average limitations.* No owner or operator of a coating line subject to the limitations of paragraph (e)(1)(i) of this section and complying by means of paragraph (e)(1)(ii) of this section shall operate the subject coating line unless the owner or operator has demonstrated compliance with paragraph (e)(1)(ii)(A), (ii)(B), (ii)(C), (ii)(D), (ii)(E) or (ii)(F) of this section (depending upon the source category) through the applicable coating analysis test methods and procedures specified in paragraph (a)(4)(i) of this section and the recordkeeping and reporting requirements specified in paragraph (e)(6)(iii) of this section.

(A) No owner or operator of a coating line subject to only one of the limitations from among paragraph (e)(1)(i)(A)(1), (i)(A)(2), (i)(A)(4), (i)(C), (i)(D), (i)(E), (i)(F), (i)(G), (i)(H), or (i)(I) of this section shall apply coating on any such coating line, during any day, whose daily-weighted average VOM content exceeds the emission limitation to which the coatings are subject.

(B) No owner or operator of a miscellaneous metal parts and products coating line subject to the limitations of paragraph (e)(1)(i)(J) of this section shall apply coatings to miscellaneous metal parts or products on the subject coating line unless the requirements in paragraph (e)(1)(ii)(B) (1) or (2) of this section are met.

(1) For each coating line which applies multiple coatings, all of which are subject to the same numerical emission limitation within paragraph (e)(1)(i)(J) of this section, during the same day (e.g., all coatings used on the line are subject to 0.42 kg/l [3.5 lbs/gal]), the daily-weighted average VOM content shall not exceed the coating VOM content

limit corresponding to the category of coating used, or

(2) For each coating line which applies coatings from more than one of the four coating categories in paragraph (e)(1)(i)(J) of this section, during the same day, the owner or operator shall submit to and receive approval from the Administrator for a site-specific FIP revision. To receive approval, the requirements of USEPA's Emissions Trading Policy Statement (and related policy) must be satisfied.

(C) No owner or operator of a can coating facility subject to the limitations of paragraph (e)(1)(i)(B) of this section shall operate the subject coating facility using a coating with a VOM content in excess of the limitations specified in paragraph (e)(1)(i)(B) of this section unless all of the following requirements are met:

(1) An alternative daily emission limitation shall be determined according to paragraph (e)(1)(ii)(C)(2) of this section. Actual daily emissions shall never exceed the alternative daily emission limitation and shall be calculated by use of the following equation.

$$E_d = \sum_{i=1}^n V_i C_i$$

where:

E_d = Actual VOM emissions for the day in units of kg/day (lbs/day).

i = Subscript denoting a specific coating applied.

n = Total number of coatings applied in the can coating operation.

V_i = Volume of each coating applied for the day in units of 1/day (gal/day) of coating (minus water and any compounds which are specifically exempted from the definition of VOM), and

C_i = The VOM content of each coating as applied in units of kg VOM/l (lbs VOM/gal) of coating (minus water and any compounds which are specifically exempted from the definition of VOM).

(2) The alternative daily emission limitation (A_d) shall be determined on a daily basis as follows:

$$A_d = \frac{\sum_{i=1}^n V_i L_i (D_i - C_i)}{(D_i - L_i)}$$

where:

A_d = The VOM emissions allowed for the day in units of kg/day (lbs/day).

i = Subscript denoting a specific coating applied.

n = Total number of surface coatings applied in the can coating operation.

C_i = The VOM content of each surface coating as applied in units of kg VOM/l (lbs VOM/gal) of coating (minus water and any compounds which are specifically exempted from the definition of VOM).

D_i = The density of VOM in each coating applied. For the purposes of calculating A_d , the density is 0.882 kg VOM/l VOM (7.36 lbs VOM/gal VOM).

V_i = Volume of each surface coating applied for the day in units of 1 (gal) of coating (minus water and any compounds which are specifically exempted from the definition of VOM).

L_1 = The VOM emission limitation for each surface coating applied as specified in paragraph (e)(1)(i)(B) of this section in units of kg VOM/l (lbs VOM/gal) of coating (minus water and any compounds which are specifically exempted from the definition of VOM).

(D) No owner or operator of a heavy off-highway vehicle products coating line subject to the limitations of paragraph (e)(1)(i)(K) of this section shall apply coatings to heavy off-highway vehicle products on the subject coating line unless the requirements of paragraph (e)(1)(ii)(D) (1) or (2) of this section are met.

(1) For each coating line which applies multiple coatings, all of which are subject to the same numerical emission limitation within paragraph (e)(1)(i)(K) of this section, during the same day (e.g., all coatings used on the line are subject to 0.42 kg/l [3.5 lbs/gal]), the daily-weighted average VOM content shall not exceed the coating VOM content limit corresponding to the category of coating used, or

(2) For each coating line which applies coatings subject to more than one numerical emission limitation in paragraph (e)(1)(i)(K) of this section, during the same day, the owner or operator shall submit to and receive approval from the Administrator for a site-specific FIP revision. To receive approval, the requirements of USEPA's Emissions Trading Policy Statement (and related policy) must be satisfied.

(E) No owner or operator of a wood furniture coating line subject to the limitations of paragraph (e)(1)(i)(L) of this section shall apply coatings to wood furniture on the subject coating line unless the requirements of paragraph (e)(1)(ii)(E) (1) or (2) of this section, in addition to the requirements specified in the note to paragraph (e)(1)(i)(L) of this section, are met.

(1) For each coating line which applies multiple coatings, all of which are subject to the same numerical emission limitation within paragraph (e)(1)(i)(L) of this section, during the same day (e.g., all coatings used on the line are subject to 0.67 kg/l [5.6 lbs/gal]), the daily-weighted average VOM content shall not exceed the coating VOM content limit corresponding to the category of coating used, or

(2) For each coating line which applies coatings subject to more than one numerical emission limitation in paragraph (e)(1)(i)(L) of this section, during the same day, the owner or operator shall submit to and receive approval from the Administrator for a site-specific FIP revision. To receive approval, the requirements of USEPA's

Emissions Trading Policy Statement (and related policy) must be satisfied.

(F) No owner or operator of an existing diesel-electric locomotive coating line in Cook County, subject to the limitations of paragraph (e)(1)(i)(M) of this section shall apply coatings to diesel-electric locomotives on the subject coating line unless the requirements of paragraph (e)(1)(ii)(F) (1) or (2) of this section are met.

(1) For each coating line which applies multiple coatings, all of which are subject to the same numerical emission limitation within paragraph (e)(1)(i)(M) of this section, during the same day (e.g., all coatings used on the line are subject to 0.42 kg/l [3.5 lbs/gal]), the daily-weighted average VOM content shall not exceed the coating VOM content limit corresponding to the category of coating used, or

(2) For each coating line which applies coatings subject to more than one numerical emission limitation in paragraph (e)(1)(i)(M) of this section, during the same day, the owner or operator shall submit to and receive approval from the Administrator for a site-specific FIP revision. To receive approval, the requirements of USEPA's Emissions Trading Policy Statement (and related policy) must be satisfied.

(iii) Limitations in terms of kg (lbs) of VOM emissions per 1 (gal) of solids as applied at each coating applicator shall be determined by the following equation:

$$S = \frac{C}{1 - (C/D)}$$

where:

S = The limitation on VOM emissions in terms of kg VOM/l (lbs VOM/gal) of solids,

C = The limitation on VOM emissions in terms of kg/l (lbs/gal) of coating (minus water and any compounds which are specifically excluded from the definition of VOM) specified in paragraph (e)(1)(i) of this section,

D = The density of VOM in the coating. For the purposes of calculating S, the density is 0.882 kg VOM/l VOM (7.36 lbs VOM/gal VOM).

(2) *Alternative emission limitations.* Any owner or operator of a coating line subject to paragraph (e)(1) of this section may comply with this paragraph, rather than with paragraph (e)(1) of this section, if a capture system and control device are operated at all times and the owner or operator demonstrates compliance with paragraphs (e)(2) (ii), (iii), (iv), (v), (vi) or (vii) of this section (depending upon the source category)

through the applicable coating analysis and capture system and control device efficiency test methods and procedures specified in paragraph (a)(4) of this section and the recordkeeping and reporting requirements specified in paragraph (e)(6)(iv) of this section; and the control device is equipped with the applicable monitoring equipment specified in paragraph (a)(4)(iv) of this section and the monitoring equipment is installed, calibrated, operated and maintained according to vendor specifications at all times the control device is in use. The use of a capture system and control device, which does not demonstrate compliance with paragraph (e)(2) (ii), (iii), (iv), (v), (vi), or (vii), may only be used as an alternative to compliance with paragraph (e)(1) of this section if approved as a FIP revision.

(i) *Alternative add-on control methodologies.* (A) The coating line is equipped with a capture system and control device that provides 81 percent reduction in the overall emissions of VOM from the coating line and the control device has a 90 percent efficiency, or

(B) The system used to control VOM from the coating line is demonstrated to have an overall efficiency sufficient to limit VOM emissions to no more than what is allowed under paragraph (e)(1) of this section. Use of any control system other than an afterburner, carbon absorption, condensation, or absorption scrubber system can only be allowed if approved by the Administrator as a SIP or FIP revision. Transfer efficiency credits can only be allowed if approved by the Administrator as a SIP or FIP revision. Baseline transfer efficiencies and transfer efficiency test methods must be approved by the Administrator.

Such overall efficiency is to be determined as follows:

(1) Obtain the emission limitation from the appropriate paragraph in (e)(1) of this section,

(2) Calculate "S" according to the equation in paragraph (e)(1)(iii) of this section,

(3) Calculate the overall efficiency required according to paragraph (a)(4)(v) of this section. For the purposes of calculating this value, according to the equation in (a)(4)(v)(B) of this section VOM₁ is equal to the value of "S" as determined above in (i)(B)(2).

(ii) No owner or operator of a coating line subject to only one of the emission limitations from among paragraph (e)(1)(i)(A)(1), (e)(1)(i)(A)(2), (e)(1)(i)(A)(4), (e)(1)(i)(C), (e)(1)(i)(D), (e)(1)(i)(E), (e)(1)(i)(F), (e)(1)(i)(G),

(e)(1)(i)(H), or (e)(1)(i)(I) of this section and equipped with a capture system and control device shall operate the subject coating line unless the requirements in paragraph (e)(2)(i) (A) or (B) of this section are met. No owner or operator of a coating line subject to paragraph (e)(1)(i)(A)(3) of this section and equipped with a capture system and control device shall operate the coating line unless the owner or operator demonstrates compliance with the topcoat limitation in accordance with the topcoat protocol for automobile or light-duty trucks referenced in paragraph (a)(4)(ii) of this section.

(iii) No owner or operator of a miscellaneous metal parts and products coating line which applies one or more coatings during the same day, all of which are subject to the same numerical emission limitation within paragraph (e)(1)(i)(J) of this section (e.g., all coatings used on the line are subject to 0.42 kg/l [3.5 lbs/gal]), and which is equipped with a capture system and control device shall operate the subject coating line unless the requirements in paragraph (e)(2)(i) (A) or (B) of this section are met.

(iv) No owner or operator of a heavy off-highway vehicle products coating line which applies one or more coatings during the same day, all of which are subject to the same numerical emission limitation within paragraph (e)(1)(i)(K) of this section (e.g., all coatings used on the line are subject to 0.42 kg/l [3.5 lbs/gal]), and which is equipped with a capture system and control device shall operate the subject coating line unless the requirements in paragraph (e)(2)(i) (A) or (B) of this section are met.

(v) No owner or operator of an existing diesel-electric locomotive coating line in Cook County which applies one or more coatings during the same day, all of which are subject to the same numerical emission limitation within paragraph (e)(1)(i)(M) of this section (e.g., all coatings used on the line are subject to 0.42 kg/l [3.5 lbs/gal]), and which is equipped with a capture system and control device shall operate the subject coating line unless the requirements in paragraph (e)(2)(i) (A) or (B) of this section are met.

(vi) No owner or operator of a wood furniture coating line which applies one or more coatings during the same day, all of which are subject to the same numerical emission limitation within paragraph (e)(1)(i)(L) (e.g., all coatings used on the line are subject to 0.67 kg/l [5.6 lbs/gal]), and which is equipped with a capture system and control device shall operate the subject coating line unless the requirements in paragraph (e)(2)(i) (A) or (B) of this

section are met. If compliance is achieved by meeting the requirements in paragraph (e)(2)(i)(B) of this section, then the provisions in the note to paragraph (e)(1)(i)(L) of this section must also be met.

(vii) No owner or operator of a can coating facility and equipped with a capture system and control device shall operate the subject coating facility unless the requirements in paragraph (e)(2)(vii) (A) or (B) of this section are met.

(A) An alternative daily emission limitation shall be determined according to paragraph (e)(1)(i)(C)(2) of this section. Actual daily emissions shall never exceed the alternative daily emission limitation and shall be calculated by use of the following equation:

$$E_a = \sum_{i=1}^n \frac{V_i C_i}{F_i}$$

where:

E_a = Actual VOM emissions for the day in units of kg/day (lbs/day).

i = Subscript denoting the specific coating applied.

n = Total number of surface coatings as applied in the can coating operation.

V_i = Volume of each coating as applied for the day in units of 1/day (gal/day) of coating (minus water and any compounds which are specifically exempted from the definition of VOM).

C_i = The VOM content of each coating as applied in units of kg VOM/l (lbs VOM/gal) of coating (minus water and any compounds which are specifically exempted from the definition of VOM), and

F_i = Fraction, by weight, of VOM emissions from the surface coating, reduced or prevented from being emitted to the ambient air. This is the overall efficiency of the capture system and control device.

(B) The coating line is equipped with a capture system and control device that provide 75 percent reduction in the overall emissions of VOM from the coating line and the control device has a 90 percent efficiency.

(3) *Exemptions from emission limitations*—(i) *Exemptions for all source categories except wood furniture coating.* The limitations of paragraph (e) of this section shall not apply to coating lines within a facility, that otherwise would be subject to the same subparagraph of paragraph (e)(1)(i) of this section (because they belong to the same source category, e.g. can coating),

provided that combined actual emissions of VOM from all lines at the facility subject to that subparagraph never exceed 6.8 kg/day (15 lbs/day) before the application of capture systems and control devices. (For example, can coating lines within a plant would not be subject to the limitations of subparagraph (e)(1)(i)(B) of this section if the combined actual emissions of VOM from the can coating lines never exceed 6.8 kg/day (15 lbs/day) before the application of capture systems and control devices.) Volatile organic material emissions from heavy off-highway vehicle products coating lines must be combined with VOM emissions from miscellaneous metal parts and products coating lines to determine applicability. Any owner or operator of a coating facility shall comply with the applicable coating analysis test methods and procedures specified in paragraph (a)(4)(i) of this section and the recordkeeping and reporting requirements specified in paragraph (e)(6)(i) of this section if total VOM emissions from the subject coating lines are always less than or equal to 6.8 kg/day (15 lbs/day) before the application of capture systems and control devices and, therefore, are not subject to the limitations of paragraph (e)(1) of this section. Once a category of coating lines at a facility is subject to the limitations in paragraph (e)(1) of this section, the coating lines are always subject to the limitations in paragraph (e)(1) of this section.

(ii) *Applicability for wood furniture coating.* (A) The limitations of paragraph (e) of this section shall apply to a plant's wood furniture coating lines if the plant contains process emission sources, not regulated by paragraphs (d), (e) (excluding paragraph (e)(1)(i)(L)), (h) (excluding paragraph (h)(5)), (i), (j), or (q)(1), or subparts B, Q (excluding sections 215.432 and 215.436), R (excluding sections 215.447, 215.450, and 215.452), S, V, X, Y (sections 215.582–215.584), or Z of 35 Ill. Adm. Code 215 (incorporated by reference as specified in 40 CFR 52.742), which as a group both:

(1) Have maximum theoretical emissions of 91 Mg (100 tons) or more per calendar year of VOM if no air pollution control equipment were used, and

(2) Are not limited to less than 91 Mg (100 tons) of VOM per calendar year if no air pollution control equipment were used, through production or capacity limitations contained in a federally enforceable construction permit or SIP or FIP version.

(B) If a plant ceases to fulfill the criteria of paragraph (e)(3)(ii)(A) of this

section, the limitations of paragraph (e)(1)(i)(L) of this section shall continue to apply to any wood furniture coating line which was ever subject to the limitations of paragraph (e)(1)(i)(L) of this section.

(C) For the purposes of paragraph (e)(3)(ii) of this section, an emission source shall be considered regulated by a subpart (of the Illinois rules), section, or paragraph if it is subject to the limitations of that subpart (of the Illinois rules), section, or paragraph. An emission source is not considered regulated by a subpart (of the Illinois rules), section, or paragraph if its emissions are below the applicability cutoff level or if the source is covered by an exemption.

(D) Any owner or operator of a wood furniture coating line to which the limitations of paragraph (e) of this section are not applicable due to the criteria in paragraph (e)(3)(ii) of this section shall, upon request by the Administrator, submit records to the Administrator within 30 calendar days from the date of the request that document that the coating line is exempt from the limitations of paragraph (e) of this section.

(4) *Exemption from general rule on use of organic material.* No owner or operator of a coating line subject to the limitations of paragraph (e)(1) of this section is required to meet the limitations of subpart K (section 215.301 or 215.302) of 35 Ill. Adm. Code 215 (incorporated by reference as specified in 40 CFR 52.742), after the date by which the coating line is required to meet paragraph (e)(1) of this section.

(5) *Compliance schedule.* Every owner or operator of a coating line (of a type included within paragraph (e)(1)(i) of this section) shall comply with the requirements of paragraph (e)(1), (e)(2) or (e)(3) of this section and paragraph (e)(6) of this section in accordance with the appropriate compliance schedule as specified in paragraph (e)(5) (i), (ii), (iii) or (iv) of this section.

(i) No owner or operator of a coating line which is exempt from the limitations of paragraph (e)(1) of this section because of the criteria in paragraph (e)(3)(i) of this section shall operate said coating line on or after July 1, 1991, unless the owner or operator has complied with, and continues to comply with, paragraph (e)(6)(i) of this section. Wood furniture coating lines are not subject to paragraph (e)(6)(i) of this section.

(ii) No owner or operator of a coating line complying by means of paragraph (e)(1)(i) of this section shall operate said coating line on or after July 1, 1991, unless the owner or operator has

complied with, and continues to comply with, paragraphs (e)(1)(i) and (e)(6)(ii) of this section.

(iii) No owner or operator of a coating line complying by means of paragraph (e)(1)(ii) of this section shall operate said coating line on or after July 1, 1991, unless the owner or operator has complied with, and continues to comply with, paragraphs (e)(1)(ii) and (e)(6)(iii) of this section.

(iv) No owner or operator of a coating line complying by means of paragraph (e)(2) of this section shall operate said coating line on or after July 1, 1991, unless the owner or operator has complied with, and continues to comply with, paragraphs (e)(2) and (e)(6)(iv) of this section.

(6) *Recordkeeping and reporting.* The VOM content of each coating and the efficiency of each capture system and control device shall be determined by the applicable test methods and procedures specified in paragraph (a)(4) of this section to establish the records required under paragraph (e)(6) of this section.

(i) Any owner or operator of a coating line which is exempt from the limitations of paragraph (e)(1) of this section because of paragraph (e)(3)(i) of this section shall comply with the following:

(A) By July 1, 1991, the owner or operator of a facility referenced in paragraph (e)(6)(i) of this section shall certify to the Administrator that the facility is exempt under the provisions of paragraph (e)(3)(i) of this section. Such certification shall include:

(1) A declaration that the facility is exempt from the limitations of paragraph (e)(1) of this section because of paragraph (e)(3)(i) of this section; and

(2) Calculations which demonstrate that the combined VOM emissions from all coating lines at the facility never exceed 6.8 kg (15 lbs) per day before the application of capture systems and control devices. The following equation shall be used to calculate total VOM emissions:

$$T_e = \sum_{j=1}^m \sum_{i=1}^n (A_i B_j)$$

where:

T_e = Total VOM emissions from coating lines at a facility each day before the application of capture systems and control devices in units of kg/day (lbs/day).

m = Number of coating lines at the facility.

j = Subscript denoting an individual coating line.

n = Number of different coatings as applied each day on each coating line at the facility.

i = Subscript denoting an individual coating.

A_i = Weight of VOM per volume of each coating (minus water and any compounds which are specifically exempted from the definition of VOM) as applied each day on each coating line at the facility in units of kg VOM/l (lbs VOM/gal), and

B_j = Volume of each coating (minus water and any compounds which are specifically exempted from the definition of VOM) as applied each day on each coating line at the facility in units of l/day (gal/day). The instrument or method by which the owner or operator accurately measured or calculated the volume of each coating as applied on each coating line each day shall be described in the certification to the Administrator.

(B) On and after July 1, 1991, the owner or operator of a facility referenced in paragraph (e)(6)(i) of this section shall collect and record all of the following information each day for each coating line and maintain the information at the facility for a period of three years:

(1) The name and identification number of each coating as applied on each coating line.

(2) The weight of VOM per volume and the volume of each coating (minus water and any compounds which are specifically exempted from the definition of VOM) as applied each day on each coating line.

(C) On and after July 1, 1991, the owner or operator of a facility exempted from the limitations of paragraph (e)(1) of this section because of paragraph (e)(3)(i) of this section shall notify the Administrator of any record showing that total VOM emissions from the coating facility exceed 6.8 kg (15 lbs) in any day before the application of capture systems and control devices shall be reported by sending a copy of such record to the Administrator within 30 days after the exceedance occurs.

(ii) Any owner or operator of a coating line subject to the limitations of paragraph (e)(1) of this section and complying by means of paragraph (e)(1)(i) of this section shall comply with the following:

(A) By July 1, 1991, or upon initial start-up of a new coating line, or upon changing the method of compliance from an existing subject coating line from paragraph (e)(1)(ii) or paragraph (e)(2) to paragraph (e)(1)(i) of this section; the owner or operator of a subject coating line shall certify to the Administrator that the coating line will be in compliance with paragraph (e)(1)(i) of this section on and after July 1, 1991, or

on and after the initial start-up date. Such certification shall include:

(1) The name and identification number of each coating as applied on each coating line.

(2) The weight of VOM per volume of each coating (minus water and any compounds which are specifically exempted from the definition of VOM) as applied each day on each coating line.

(3) For coating lines subject to paragraph (e)(1)(i)(A)(3) of this section, certification shall include:

(i) The name and identification number of each coating line which will comply by means of paragraph (e)(1)(i)(A)(3) of this section,

(ii) The name and identification number of each coating as applied on each coating line,

(iii) The weight of VOM per volume of each coating as applied on each coating line,

(iv) The instrument or method by which the owner or operator will accurately measure or calculate the volume of each coating as applied each day on each coating line,

(v) The method by which the owner or operator will create and maintain records each day as required in paragraph (e)(6)(ii)(B) of this section for coating lines subject to paragraph (e)(1)(i)(A)(3) of this section,

(vi) An example format in which the records required in paragraph (e)(6)(ii)(B) of this section for coating lines subject to paragraph (e)(1)(i)(A)(3) of this section.

(B) On and after July 1, 1991, or on and after the initial start-up date, the owner or operator of a coating line subject to the limitations of paragraph (e)(1) of this section and complying by means of paragraph (e)(1)(i) of this section shall collect and record all of the following information each day for each coating line and maintain the information at the facility for a period of three years:

(1) The name and identification number of each coating as applied on each coating line.

(2) The weight of VOM per volume of each coating (minus water and any compounds which are specifically exempted from the definition of VOM) as applied each day on each coating line.

(3) For coating lines subject to paragraph (e)(1)(i)(A)(3) of this section, the owner or operator shall maintain all records necessary to calculate the daily-weighted average VOM content from the coating line in accordance with the proposal submitted, and approved by the Administrator, pursuant to paragraph (e)(1)(A)(3) of this section.

(C) On and after July 1, 1991, the owner or operator of a subject coating line shall notify the Administrator in the following instances:

(1) Any record showing violation of paragraph (e)(1)(i) of this section shall be reported by sending a copy of such record to the Administrator within 30 days following the occurrence of the violation, except that any record showing a violation of paragraph (e)(1)(i)(A)(3) of this section shall be reported by sending a copy of such record to the Administrator within 15 days from the end of the month in which the violation occurred.

(2) At least 30 calendar days before changing the method of compliance with paragraph (e)(1) of this section from paragraph (e)(1)(i) to paragraph (e)(1)(ii) or paragraph (e)(2) of this section, the owner or operator shall comply with all requirements of paragraph (e)(6)(iii)(A) or (iv)(A) of this section, respectively. Upon changing the method of compliance with paragraph (e)(1) of this section from paragraph (e)(1)(i) to paragraph (e)(1)(ii) or paragraph (e)(2) of this section, the owner or operator shall comply with all requirements of paragraph (e)(6)(iii) or (iv) of this section, respectively.

(3) For coating lines subject to paragraph (e)(1)(i)(A)(3) of this section, the owner or operator shall notify the Administrator of any change to the topcoating operation at least 30 days before the change is effected. The Administrator shall determine whether or not recertification testing is required. If the Administrator determines that recertification testing is required, then the owner or operator shall submit a proposal to the Administrator to test within 30 days and retest within 30 days of the Administrator's approval of the proposal.

(iii) Any owner or operator of a coating line subject to the limitations of paragraph (e)(1) of this section and complying by means of paragraph (e)(1)(ii) of this section shall comply with the following:

(A) By July 1, 1991, or upon initial start-up of a new coating line, or upon changing the method of compliance for an existing subject coating line from paragraph (e)(1)(i) or paragraph (e)(2) to paragraph (e)(1)(ii) of this section; the owner or operator of the subject coating line shall certify to the Administrator that the coating line will be in compliance with paragraph (e)(1)(ii) of this section on and after July 1, 1991, or on and after the initial start-up date. Such certification shall include:

(1) The name and identification number of each coating line which will

comply by means of paragraph (e)(1)(ii) of this section.

(2) The name and identification number of each coating as applied on each coating line.

(3) The weight of VOM per volume and the volume of each coating (minus water and any compounds which are specifically exempted from the definition of VOM) as applied each day on each coating line.

(4) The instrument or method by which the owner or operator will accurately measure or calculate the volume of each coating as applied each day on each coating line.

(5) The method by which the owner or operator will create and maintain records each day as required in paragraph (e)(6)(iii)(B) of this section.

(6) An example of the format in which the records required in paragraph (e)(6)(iii)(B) of this section will be kept.

(B) On and after July 1, 1991, or on and after the initial start-up date, the owner or operator of a coating line subject to the limitations of paragraph (e)(1) of this section and complying by means of paragraph (e)(1)(ii) of this section, shall collect and record all of the following information each day for each coating line and maintain the information at the facility for a period of three years:

(1) The name and identification number of each coating as applied on each coating line.

(2) The weight of VOM per volume and the volume of each coating (minus water and any compounds which are specifically exempted from the definition of VOM) as applied each day on each coating line.

(3) The daily-weighted average VOM content of all coatings as applied on each coating line as defined in paragraph (a)(3) of this section.

(C) On and after July 1, 1991, the owner or operator of a subject coating line shall notify the Administrator in the following instances:

(1) Any record showing violation of paragraph (e)(1)(ii) of this section shall be reported by sending a copy of such record to the Administrator within 30 days following the occurrence of the violation.

(2) At least 30 calendar days before changing the method of compliance with paragraph (e) from paragraph (e)(1)(ii) to paragraph (e)(1)(i) or paragraph (e)(2) of this section, the owner or operator shall comply with all requirements of paragraph (e)(6)(ii)(A) or (iv)(A), respectively. Upon changing the method of compliance with paragraph (e) from paragraph (e)(1)(ii) to paragraph (e)(1)(i) or paragraph (e)(2) of this section, the owner or operator shall comply with all

requirements of paragraph (e)(6)(ii) or (iv), respectively.

(iv) Any operator or owner of a coating line subject to the limitations of paragraph (e)(2) of this section and complying by means of paragraph (e)(2)(ii), (iii), (iv), (v), (vi) or (vii) of this section shall comply with the following:

(A) By July 1, 1991, or upon initial start-up of a new coating line, or upon changing the method of compliance for an existing coating line from paragraph (e)(1) (i) or (ii) to paragraph (e)(2) of this section; the owner or operator of the subject coating line shall perform all tests and submit to the Administrator the results of all tests and calculations necessary to demonstrate that the subject coating line will be in compliance with paragraph (e)(2) of this section on and after July 1, 1991, or on and after the initial start-up date.

(B) On and after July 1, 1991, or on and after the initial start-up date, the owner or operator of a coating line subject to the limitations of paragraph (e)(2) of this section and complying by means of paragraph (e)(2) (ii), (iii), (iv), (v), (vi) or (vii) of this section shall collect and record all of the following information each day for each coating line and maintain the information at the facility for a period of three years:

(1) The weight of VOM per volume of coating solids as applied each day on each coating line, if complying pursuant to paragraph (e)(2)(i)(B) of this section.

(2) Control device monitoring data.

(3) A log operating time for the capture system, control device, monitoring equipment and the associated coating line.

(4) A maintenance log for the capture system, control device and monitoring equipment detailing all routine and non-routine maintenance performed including dates and duration of any outages.

(C) On and after July 1, 1991, the owner or operator of a subject coating line shall notify the Administrator in the following instances:

(1) Any record showing violation of paragraph (e)(2) of this section shall be reported by sending a copy of such record to the Administrator within 30 days following the occurrence of the violation.

(2) At least 30 calendar days before changing the method of compliance with paragraph (e) from paragraph (e)(2) to paragraph (e)(1)(i) or paragraph (e)(1)(ii) of this section, the owner or operator shall comply with all requirements of paragraph (e)(6)(ii)(A) or (iii)(A) of this section, respectively. Upon changing the method of compliance with paragraph (e) from paragraph (e)(2) to paragraph (e)(1)(i) or paragraph (e)(1)(ii) of this section, the owner or operator shall comply with all requirements of

paragraph (e)(6)(ii) or (iii) of this section, respectively.

(f)—(g) [Reserved]

(h) *Printing and publishing—(1) Flexographic and rotogravure printing.*

(i) No owner or operator of a subject flexographic, packaging rotogravure or publication rotogravure printing line shall apply at any time on any coating or ink unless the VOM content does not exceed the limitation specified in either paragraph (h)(1)(i)(A) or (B) of this section. Compliance with this paragraph must be demonstrated through the applicable coating or ink analysis test methods and procedures specified in paragraph (a)(4)(i) of this section and the recordkeeping and reporting requirements specified in paragraph (h)(4)(ii) of this section. As an alternative to compliance with paragraph (h)(1)(i) of this section, a subject printing line may meet the requirements of paragraph (h)(1)(ii) or (iii) of this section.

(A) Forty percent VOM by volume of the coating and ink (minus water and any compounds which are specifically exempted from the definition of VOM), or

(B) Twenty-five percent VOM by volume of the volatile content in the coating and ink.

(ii) No owner or operator of a subject flexographic, packaging rotogravure or publication rotogravure printing line shall apply coatings or inks on the subject printing line unless the weighted average, by volume, VOM content of all coatings and inks as applied each day on the subject printing line does not exceed the limitation specified in either paragraph (h)(1)(i)(A) (as determined by paragraph (h)(1)(ii)(A) or (h)(1)(i)(B) (as determined by paragraph (h)(1)(ii)(B) of this section. Compliance with this paragraph must be demonstrated through the applicable coating or ink analysis test methods and procedures specified in paragraph (a)(4)(i) of this section and the recordkeeping and reporting requirements specified in paragraph (h)(4)(iii) of this section.

(A) The following equation shall be used to determine if the weighted average VOM content of all coatings and inks as applied each day on the subject printing line exceeds the limitation specified in paragraph (h)(1)(i)(A) of this section.

$$VOM_{(i)(A)} = \frac{\sum_{i=1}^n C_i L_i (V_{si} + V_{VOMi})}{\sum_{i=1}^n L_i (V_{si} + V_{VOMi})}$$

where:

$VOM_{(i)(A)}$ = The weighted average VOM content in units of percent VOM by volume of all coatings and inks (minus water and any compounds which are specifically exempted from the definition of VOM) used each day,

i = Subscript denoting a specific coating or ink as applied,

n = The number of different coatings and/or inks as applied each day on a printing line,

C_i = The VOM content in units of percent VOM by volume of each coating or ink as applied (minus water and any compounds which are specifically exempted from the definition of VOM),

L_i = The liquid volume of each coating or ink as applied in units of 1 (gal),

V_{si} = The volume fraction of solids in each coating or ink as applied, and

V_{VOMi} = The volume fraction of VOM in each coating or ink as applied.

(B) The following equation shall be used to determine if the weighted average VOM content of all coatings and inks as applied each day on the subject printing line exceeds the limitation specified in paragraph (h)(1)(i)(B) of this section.

$$VOM_{(i)(B)} = \frac{\sum_{i=1}^n C_i L_i V_{VOMi}}{\sum_{i=1}^n L_i V_{VOMi}}$$

where:

$VOM_{(i)(B)}$ = The weighted average VOM content in units of percent VOM by volume of the volatile content of all coatings and inks used each day,

i = Subscript denoting a specific coating or ink as applied,

n = The number of different coatings and/or inks as applied each day on each printing line,

C_i = The VOM content in units of percent VOM by volume of the volatile matter in each coating or ink as applied,

L_i = The liquid volume of each coating or ink as applied in units of 1 (gal), and

V_{VOMi} = The volume fraction of volatile matter in each coating or ink as applied.

(iii) No owner or operator of a subject flexographic, packaging rotogravure or publication rotogravure printing line equipped with a capture system and control device shall operate the subject printing line unless the owner or operator meets the requirements in paragraph (h)(1)(iii) (A), (B) or (C) and paragraphs (h)(1)(iii) (D), (E) and (F) of this section.

(A) A carbon adsorption system is used which reduces the captured VOM emissions by at least 90 percent by weight, or

(B) An incineration system is used which reduces the captured VOM emissions by at least 90 percent by weight, or

(C) An alternative VOM emission reduction system is demonstrated to have at least a 90 percent control device efficiency and the alternative emission reduction system is approved by the Administrator as a SIP or FIP revisions, and

(D) The printing line is equipped with a capture system and control device that provides an overall reduction in VOM emissions of at least:

(1) 75 percent where a publication rotogravure printing line is employed, or

(2) 65 percent where a packaging rotogravure printing line is employed, or

(3) 60 percent where a flexographic printing line is employed, and

(E) The control device is equipped with the applicable monitoring equipment specified in paragraph (a)(4)(iv)(B) of this section and the monitoring equipment is installed, calibrated, operated and maintained according to vendor specifications at all times the control device is in use, and

(F) The capture system and control device are operated at all times when the subject printing line is in operation. The owner or operator shall demonstrate compliance with this paragraph by using the applicable capture system and control device test methods and procedures specified in paragraphs (a)(4) (iii) through (vi) of this section and by complying with the recordkeeping and reporting requirements specified in paragraph (h)(4)(iv) of this section.

(2) *Applicability.* (i) The limitations of paragraph (h)(1) of this section apply to all flexographic and rotogravure printing lines at a subject facility. All facilities with flexographic and/or rotogravure printing lines are subject facilities unless:

(A) Total maximum theoretical emissions of VOM from all flexographic and rotogravure printing line(s) at the facility never exceed 90.7 Mg (100 tons) per calendar year before the application of capture systems and control devices, or

(B) A federally enforceable construction permit or SIP or FIP revision for all flexographic and rotogravure printing line(s) at a facility requires the owner or operator to limit production or capacity of these printing line(s) to reduce total VOM emissions from all flexographic and rotogravure printing line(s) to 90.7 Mg (100 tons) or less per calendar year before the application of capture systems and control devices.

(ii) Upon achieving compliance with paragraph (h) of this section, the emission source is not required to meet subpart K (sections 215.301 or 215.302) of 35 Ill. Adm. Code 215 (incorporated by reference as specified in 40 CFR 52.742). Emission sources exempt from paragraph (h) of this section are subject to subpart K (sections 215.301 or 215.302). Rotogravure or flexographic equipment used for both roll printing and paper coating are subject to paragraph (h) of this section.

(iii) Once subject to the limitations of paragraph (h)(1) of this section, a flexographic or rotogravure printing line is always subject to the limitations of paragraph (h)(1) of this section.

(iv) Any owner or operator of any flexographic or rotogravure printing line that is exempt from the limitations of paragraph (h)(1) of this section because of the criteria in paragraph (h)(2) of this section is subject to the recordkeeping and reporting requirements specified in paragraph (h)(4)(i) of this section.

(3) *Compliance schedule.* Every owner or operator of a flexographic and/or rotogravure printing line shall comply with the applicable requirements of paragraph (h)(1) of this section and paragraph (h)(4) of this section in accordance with the applicable compliance schedule specified in paragraph (h)(3) (i), (ii), (iii) or (iv) of this section.

(i) No owner or operator of a flexographic or rotogravure printing line which is exempt from the limitations of paragraph (h)(1) of this section because of the criteria in paragraph (h)(2) of this section shall operate said printing line on or after July 1, 1991, unless the owner or operator has complied with, and continues to comply with, paragraph (h)(4)(i) of this section.

(ii) No owner or operator of a flexographic or rotogravure printing line complying by means of paragraph (h)(1)(i) of this section shall operate said printing line on or after July 1, 1991, unless the owner or operator has complied with, and continues to comply with, paragraphs (h)(1)(i) and (h)(4)(ii) of this section.

(iii) No owner or operator of a flexographic or rotogravure printing line complying by means of paragraph (h)(1)(ii) of this section shall operate said printing line on or after July 1, 1991, unless the owner or operator has complied with, and continues to comply with, paragraphs (h)(1)(ii) and (h)(4)(iii) of this section.

(iv) No owner or operator of a flexographic or rotogravure printing line complying by means of paragraph (h)(1)(iii) of this section shall operate said printing line on or after July 1, 1991,

unless the owner or operator has complied with, and continues to comply with, paragraphs (h)(1)(iii) and (h)(4)(iv) of this section.

(4) *Recordkeeping and reporting.* The VOM content of each coating and ink and the efficiency of each capture system and control device shall be determined by the applicable test methods and procedures specified in paragraph (a)(4) of this section to establish the records required under paragraph (h)(4) of this section.

(i) Any owner or operator of a printing line which is exempted from the limitations of paragraph (h)(1) of this section because of the criteria in paragraph (h)(2) of this section shall comply with the following:

(A) By July 1, 1991, the owner or operator of a facility to which paragraph (h)(4)(i) of this section is applicable shall certify to the Administrator that the facility is exempt under the provisions of paragraph (h)(2) of this section. Such certification shall include:

(1) A declaration that the facility is exempt from the limitations of the criteria in paragraph (h)(1) of this section because of paragraph (h)(2) of this section, and

(2) Calculations which demonstrate that total maximum theoretical emissions of VOM from all flexographic and rotogravure printing lines at the facility never exceed 90.7 Mg (100 tons) per calendar year before the application of capture systems and control devices. Total maximum theoretical emissions of VOM for a flexographic or rotogravure printing facility is the sum of maximum theoretical emissions of VOM from each flexographic and rotogravure printing line at the facility. The following equation shall be used to calculate total maximum theoretical emissions of VOM per calendar year before the application of capture systems and control devices for each flexographic and rotogravure printing line at the facility:

$$E_p = A \times B$$

where:

E_p = Total maximum theoretical emissions of VOM from one flexographic or rotogravure printing line in units of kg/year (lbs/year).

A = Weight of VOM per volume of solids of the coating or ink with the highest VOM content as applied each year on the printing line in units of kg VOM/l (lbs VOM/gal) of coating or ink solids, and

B = Total volume of solids for all coatings and inks that can potentially be applied each year on the printing line in units of 1/year (gal/year). The instrument and/or method by which the owner or operator accurately measured or calculated the volume of each coating and ink as applied and the amount that can

potentially be applied each year on the printing line shall be described in the certification to the Administrator.

(B) On and after July 1, 1991, the owner or operator of a facility referenced in paragraph (h)(4)(i) of this section shall collect and record all of the following information each year for each printing line and maintain the information at the facility for a period of three years:

(1) The name and identification number of each coating and ink as applied on each printing line.

(2) The VOM content and the volume of each coating and ink as applied each year on each printing line.

(C) On and after July 1, 1991, the owner or operator of a facility exempted from the limitations of paragraph (h)(1) of this section because of the criteria in paragraph (h)(2) of this section shall notify the Administrator of any record showing that total maximum theoretical emissions of VOM from all printing lines exceed 90.7 Mg (100 tons) in any calendar year before the application of capture systems and control devices, shall be reported by sending a copy of such record to the Administrator within 30 days after the exceedance occurs.

(ii) Any owner or operator of a printing line subject to the limitations of paragraph (h)(1) of this section and complying by means of paragraph (h)(1)(i) of this section shall comply with the following:

(A) By July 1, 1991, or upon initial start-up of a new printing line, or upon changing the method of compliance from an existing subject printing line from paragraph (h)(1)(ii) or (iii) of this section to paragraph (h)(1)(i) of this section, the owner or operator of a subject printing line shall certify to the Administrator that the printing line will be in compliance with paragraph (h)(1)(i) of this section on and after July 1, 1991, or on and after the initial start-up date. Such certification shall include:

(1) The name and identification number of each coating and ink as applied on each printing line.

(2) The VOM content of each coating and ink as applied each day on each printing line.

(B) On and after July 1, 1991, or on and after the initial start-up date, the owner or operator of a printing line subject to the limitations of paragraph (h)(1) of this section and complying by means of paragraph (h)(1)(i) of this section shall collect and record all of the following information each day for each coating line and maintain the information at the facility for a period of three years:

(1) The name and identification number of each coating and ink as applied on each printing line.

(2) The VOM content of each coating and ink as applied each day on each printing line.

(C) On and after July 1, 1991, the owner or operator of a subject printing line shall notify the Administrator in the following instances:

(1) Any record showing violation of paragraph (h)(1)(i) of this section shall be reported by sending a copy of such record to the Administrator within 30 days following the occurrence of the violation.

(2) At least 30 calendar days before changing the method of compliance with paragraph (h)(1) of this section from paragraph (h)(1)(i) of this section to paragraph (h)(1)(ii) or (iii) of this section, the owner or operator shall comply with all requirements of paragraph (h)(4)(iii)(A) or (iv)(A) of this section respectively. Upon changing the method of compliance with paragraph (h)(1) from paragraph (h)(1)(i) to paragraph (h)(1)(ii) or (iii) of this section, the owner or operator shall comply with all requirements of paragraph (h)(4)(iii) or (iv) of this section, respectively.

(iii) Any owner or operator of a printing line subject to the limitations of paragraph (h)(1) of this section and complying by means of paragraph (h)(1)(ii) of this section shall comply with the following:

(A) By July 1, 1991, or upon initial start-up of a new printing line, or upon changing the method of compliance for an existing subject printing line from paragraph (h)(1)(i) or (iii) of this section to paragraph (h)(1)(ii) of this section, the owner or operator of the subject printing line shall certify to the Administrator that the printing line will be in compliance with paragraph (h)(1)(ii) of this section on and after July 1, 1991, or on and after the initial start-up date. Such certification shall include:

(1) The name and identification number of each printing line which will comply by means of paragraph (h)(1)(ii) of this section.

(2) The name and identification number of each coating and ink available for use on each printing line.

(3) The VOM content of each coating and ink as applied each day on each printing line.

(4) The instrument or method by which the owner or operator will accurately measure or calculate the volume of each coating and ink as applied each day on each printing line.

(5) The method by which the owner or operator will create and maintain records each day as required in paragraph (h)(4)(iii)(B) of this section.

(6) An example of the format in which the records required in paragraph (h)(4)(iii)(B) of this section will be kept.

(B) On and after July 1, 1991, or on and after the initial start-up date, the owner or operator of a printing line subject to the limitations of paragraph (h)(1) of this section and complying by means of paragraph (h)(1)(ii) of this section shall collect and record all of the following information each day for each printing line and maintain the information at the facility for a period of three years:

(1) The name and identification number of each coating and ink as applied on each printing line.

(2) The VOM content and the volume of each coating and ink as applied each day on each printing line.

(3) The daily-weighted average VOM content of all coatings and inks as applied on each printing line.

(C) On and after July 1, 1991, the owner or operator of a subject printing line shall notify the Administrator in the following instances:

(1) Any record showing violation of paragraph (h)(1)(ii) of this section shall be reported by sending a copy of such record to the Administrator within 30 days following the occurrence of the violation.

(2) At least 30 calendar days before changing the method of compliance with paragraph (h)(1) of this section from paragraph (h)(1)(ii) to paragraph (h)(1)(i) or (iii) of this section, the owner or operator shall comply with all requirements of paragraph (h)(4)(ii)(A) or (iv)(A), respectively. Upon changing the method of compliance with paragraph (h)(1) from paragraph (h)(1)(ii) to paragraph (h)(1)(i) or (iii), the owner or operator shall comply with all requirements of paragraph (h)(4)(ii) or (iv) of this section, respectively.

(iv) Any owner or operator of a printing line subject to the limitations of paragraph (h)(1) of this section and complying by means of paragraph (h)(1)(iii) of this section shall comply with the following:

(A) By July 1, 1991, or upon initial start-up of a new printing line, or upon changing the method of compliance for an existing printing line from paragraph (h)(1)(i) or (ii) of this section to paragraph (h)(1)(iii) of this section, the owner or operator of the subject printing line shall perform all tests and submit to the Administrator the results of all tests and calculations necessary to demonstrate that the subject printing line will be in compliance with paragraph (h)(1)(iii) of this section on and after July 1, 1991, or on and after the initial start-up date.

(B) On and after July 1, 1991, or on and after the initial start-up date, the owner or operator of a printing line subject to the limitations of paragraph (h)(1) of this section and complying by means of paragraph (h)(1)(iii) of this section shall collect and record all of the following information each day for each printing line and maintain the information at the facility for a period of three years:

(1) Control device monitoring data.

(2) A log of operating time for the capture system, control device, monitoring equipment and the associated printing line.

(3) A maintenance log for the capture system, control device and monitoring equipment detailing all routine and non-routine maintenance performed including dates and duration of any outages.

(C) On and after July 1, 1991, the owner or operator of a subject printing line shall notify the Administration in the following instances:

(1) Any record showing violation of paragraph (h)(1)(iii) of this section shall be reported by sending a copy of such record to the Administrator within 30 days following the occurrence of the violation.

(2) At least 30 calendar days before changing the method of compliance with paragraph (h)(1) from paragraph (h)(1)(iii) to paragraph (h)(1) (i) or (ii), the owner or operator shall comply with all requirements of paragraph (h)(4) (ii)(A) or (iii)(A) of this section, respectively. Upon changing the method of compliance with paragraph (h)(1) from paragraph (h)(1)(iii) to paragraph (h)(1) (i) or (ii) of this section, the owner or operator shall comply with all requirements of paragraph (h)(4) (ii) or (iii) of this section, respectively.

(5) *Heatset-web-offset lithographic printing*—(i) *Applicability*. (A) The limitations of paragraph (h)(5)(ii) of this section apply to all heatset-web-offset lithographic printing lines at a subject facility. All facilities with heatset-web-offset lithographic printing lines are subject facilities unless:

(1) Total maximum theoretical emissions of VOM from all heatset-web-offset lithographic printing lines at the facility never exceed 90.7 Mg (100 tons) per calendar year in the absence of air pollution control equipment, or

(2) A federally enforceable construction permit or SIP or FIP revision for all heatset-web-offset lithographic printing line(s) at a facility requires the owner or operator to limit production or capacity of these printing line(s) to reduce total VOM emissions from all heatset-web-offset lithographic printing line(s) to 90.7 Mg (100 tons) per

calendar year or less in the absence of air pollution control equipment, and

(B) Any owner or operator of any heatset-web-offset lithographic printing line that is exempt from the limitations in paragraph (h)(5)(ii) of this section because of the criteria in paragraph (h)(5)(i)(A) of this section shall be subject to the recordkeeping and reporting requirements in paragraph (h)(5)(iii)(A) of this section.

(ii) *Specific provisions*. No owner or operator of a subject heatset-web-offset printing line may cause or allow the operation of the subject heatset-web-offset printing line unless the owner or operator meets the requirements in paragraph (h)(5)(ii) (A) or (B) of this section and the requirements in paragraphs (h)(5)(ii) (C) and (D) of this section.

(A) An afterburner system is installed and operated that reduces 90 percent of the VOM emissions from the dryer exhaust, or

(B) The fountain solution contains no more than 8 percent, by weight, of VOM and a condensation recovery system is installed and operated that removes at least 75 percent of the non-isopropyl alcohol organic materials from the dryer exhaust, and

(C) The control device is equipped with the applicable monitoring equipment specified in paragraph (a)(4)(iv)(B) of this section and the monitoring equipment is installed, calibrated, operated and maintained according to vendor specifications at all times the control device is in use, and

(D) The control device is operated at all times when the subject printing line is in operation. The owner or operator shall demonstrate compliance with paragraph (h)(5) of this section by using the applicable test methods and procedures specified in paragraphs (a)(4) (i), (iv), and (vi) of this section and by complying with the recordkeeping and reporting requirements specified in paragraph (h)(5)(iii) of this section.

(iii) *Recordkeeping and reporting*. The VOM content of each fountain solution and ink and the efficiency of each control device shall be determined by the applicable test methods and procedures specified in paragraph (a)(4) of this section to establish the records required under paragraph (h)(5)(iii) of this section.

(A) Any owner or operator of a printing line which is exempted from the limitations of paragraph (h)(5)(ii) of this section because of the criteria in paragraph (h)(5)(i) of this section shall comply with the following:

(1) By July 1, 1991, the owner or operator of a facility to which paragraph (h)(5)(iii)(A) of this section is applicable

shall certify to the Administrator that the facility is exempt under the provisions of paragraph (h)(5)(i) of this section. Such certification shall include:

(i) A declaration that the facility is exempt from the limitations of paragraph (h)(5)(ii) of this section because of the criteria in paragraph (h)(5)(i) of this section, and

(ii) Calculations which demonstrate that total maximum theoretical emissions of VOM from all heatset-web-offset lithographic printing lines at the facility never exceed 90.7 Mg (100 tons) per calendar year before the application of air pollution control equipment. Total maximum theoretical emissions of VOM for a heatset-web-offset lithographic printing facility is the sum of maximum theoretical emissions of VOM from each heatset-web-offset lithographic printing line at the facility. The following equation shall be used to calculate total maximum theoretical emissions of VOM per calendar year in the absence of air pollution control equipment for each heatset-web-offset lithographic printing line at the facility.

$$E_p = (A \times B) + \frac{(C \times D)}{100}$$

where

E_p = Total maximum theoretical emissions of VOM from one heatset-web-offset printing line in units of kg/year (lbs/year).

A = Weight of VOM per volume of solids of ink with the highest VOM content as applied each year on the printing line in units of kg VOM/l (lbs VOM/gal) of solids, and

B = Total volume of solids for all inks that can potentially be applied each year on the printing line in units of l/year (gal/year). The instrument or method by which the owner or operator accurately measured or calculated the volume of each ink as applied and the amount that can potentially be applied each year on the printing line shall be described in the certification to the Administrator.

C = The weight percent VOM of the fountain solution with the highest VOM content.

D = The total volume of fountain solution that can potentially be used each year on the printing line in units of l/year (gal/year). The instrument and/or method by which the owner or operator accurately measured or calculated the volume of each fountain solution used and the amount that can potentially be used each year on the printing line shall be described in the certification to the Administrator.

(2) On and after July 1, 1991, the owner or operator of a facility to which paragraph (h)(5)(iii)(A) of this section is applicable shall collect and record all of

the following information each year for each printing line and maintain the information at the facility for a period of three years:

(i) The name and identification of each fountain solution and ink as applied on each printing line.

(ii) The VOM content and the volume of each fountain solution and ink as applied each year on each printing line.

(3) On and after July 1, 1991, the owner or operator of a facility exempted from the limitations of paragraph (h)(5)(ii) of this section because of the criteria in paragraph (h)(5)(i) of this section shall notify the Administrator of any record showing that total maximum theoretical emissions of VOM from all printing lines exceed 90.7 Mg (100 tons) in any calendar year in the absence of air pollution control equipment shall be reported by sending a copy of such record to the Administrator within 30 days after the exceedance occurs.

(B) Any owner or operator of a printing line subject to the limitations of paragraph (h)(5)(ii) of this section and complying by means of paragraph (h)(5)(iii)(A) of this section shall comply with the following:

(1) By July 1, 1991, or upon initial start-up of a new printing line, or upon changing the method of compliance for an existing printing line from paragraph (h)(5)(ii)(B) to (ii)(A) of this section, the owner or operator of the subject printing line shall perform all tests and submit to the Administrator the results of all tests and calculations necessary to demonstrate that the subject printing line will be in compliance with paragraph (h)(5)(ii)(A) of this section on and after July 1, 1991, or on and after the initial start-up date.

(2) On and after July 1, 1991, or on and after the initial start-up date, the owner or operator of a printing line subject to the limitations of paragraph (h)(5)(ii) of this section and complying by means of paragraph (h)(5)(iii)(A) of this section shall collect and record the following information each day for each printing line and maintain the information at the facility for a period of three years:

(i) Control device monitoring data.

(ii) A log of operating time for the control device, monitoring equipment and the associated printing line.

(iii) A maintenance log for the control device and monitoring equipment detailing all routine and nonroutine maintenance performed including dates and duration of any outages.

(3) On and after July 1, 1991, the owner or operator of a subject printing line shall notify the Administrator in the following instances:

(i) Any record showing violation of paragraph (h)(5)(ii)(A) of this section

shall be reported by sending a copy of such record to the Administrator within 30 days following the occurrence of the violation.

(ii) At least 30 calendar days before changing the method of compliance with paragraph (h)(5)(ii) of this section from paragraph (h)(5)(ii)(A) to (ii)(B), the owner or operator shall comply with all requirements of paragraph (h)(5)(iii)(C)(1) of this section. Upon changing the method of compliance with paragraph (h)(5)(ii) from paragraph (h)(5)(ii)(A) to (ii)(B) of this section the owner or operator shall comply with all requirements of paragraph (h)(5)(iii)(C) of this section.

(C) Any owner or operator of a printing line subject to the limitations of paragraph (h)(5)(ii) of this section and complying by means of paragraph (h)(5)(iii)(B) of this section shall comply with the following:

(1) By July 1, 1991, or upon initial start-up of a new printing line, or upon changing the method of compliance for an existing printing line from paragraph (h)(5)(ii)(A) to (ii)(B) of this section, the owner or operator of the subject printing line shall perform all tests and submit to the Administrator the results of all tests and calculations necessary to demonstrate that the subject printing line will be in compliance with paragraph (h)(5)(ii)(B) of this section on and after July 1, 1991, or on and after the initial start-up date.

(2) On and after July 1, 1991, or on and after the initial start-up date, the owner or operator of a printing line subject to the limitations of paragraph (h)(5)(ii) of this section and complying by means of paragraph (h)(5)(iii)(B) of this section shall collect and record the following information each day for each printing line and maintain the information at the facility for a period of three years:

(i) The VOM content of the fountain solution used each day on each printing line.

(ii) A log of operating time for the control device and the associated printing line.

(iii) A maintenance log for the control device detailing all routine and non-routine maintenance performed including dates and duration of any outages.

(3) On and after July 1, 1991, the owner or operator of a subject printing line shall notify the Administrator in the following instances:

(i) Any record showing violation of paragraph (h)(5)(ii)(B) of this section shall be reported by sending a copy of such record to the Administrator within 30 days following the occurrence of the violation.

(ii) At least 30 calendar days before changing the method of compliance with paragraph (h)(5)(ii) of this section from paragraph (h)(5)(ii)(B) to (h)(5)(ii)(A) of this section, the owner or operator shall comply with all requirements of paragraph (h)(5)(iii)(B)(1) of this section. Upon changing the method of compliance with paragraph (h)(5)(ii) of this section from paragraph (h)(5)(ii)(B) to (h)(5)(ii)(A) of this section, the owner or operator shall comply with all requirements of paragraph (h)(5)(iii)(B) of this section.

(iv) *Compliance schedule.* Every owner or operator of a heatset-web-offset lithographic printing line shall comply with the applicable requirements of paragraphs (h)(5)(ii) and (iii) of this section in accordance with the applicable compliance schedule specified in paragraph (h)(5)(iv)(A), (B) or (C) of this section.

(A) No owner or operator of a heatset-web-offset lithographic printing line which is exempt from the limitations of paragraph (h)(5)(ii) of this section because of the criteria in paragraph (h)(5)(i) of this section shall operate said printing line on or after July 1, 1991, unless the owner or operator has complied with, and continues to comply with, paragraphs (h)(5)(iii)(A) and (h)(5)(ii)(A) of this section.

(B) No owner or operator of a heatset-web-offset lithographic printing line complying by means of paragraph (h)(5)(ii)(A) of this section shall operate said printing line on or after July 1, 1991, unless the owner or operator has complied with, and continues to comply with, paragraphs (h)(5)(iii)(B) and (h)(5)(ii)(B) of this section.

(C) No owner or operator of a heatset-web-offset lithographic printing line complying by means of paragraph (h)(5)(iii)(B) of this section shall operate said printing line on or after July 1, 1991, unless the owner or operator has complied with, and continues to comply with, paragraph (h)(5)(iii)(C) of this section.

(i) *Leaks from synthetic organic chemical and polymer manufacturing equipment—(1) Inspection program for leaks.* The owner or operator of a synthetic organic chemical or polymer manufacturing plant subject to paragraph (i) and subpart Q (sections 215.430, 215.431, 215.433, 215.434, 215.435, and 215.437) of Ill. Adm. Code 215 (incorporated by reference as specified in 40 CFR 52.742) shall, for the purposes of detecting leaks, conduct a component inspection program using the test methods specified in Method 21, 40 CFR part 60, appendix A, consistent with the following provisions:

(i) Test annually those components operated near extreme temperature or pressure such that they would be unsafe to routinely monitor and those components which would require the elevation of monitoring personnel higher than two meters above permanent worker access structures or surfaces.

(ii) Test quarterly all other pressure relief valves in gas service, pumps in light liquid service, valves in light liquid service and in gas service, and compressors.

(iii) If less than or equal to 2 percent of the valves in light liquid service and in gas service tested pursuant to paragraph (i)(1)(ii) of this section are found not to leak for five consecutive quarters, no leak tests shall be required for three consecutive quarters.

Thereafter, leak tests shall resume for the next quarter. If that test shows less than or equal to 2 percent of the valves in light liquid service and in gas service are leaking, then no tests are required for the next three quarters. If more than 2 percent are leaking, then tests are required for the next five quarters.

(iv) Observe visually all pump seals weekly.

(v) Test immediately any pump seal from which liquids are observed dripping.

(vi) Test any relief valve within 24 hours after it has vented to the atmosphere.

(vii) Routine instrument monitoring of valves which are not externally regulated, flanges, and equipment in heavy liquid service, is not required. However, any valve which is not externally regulated, flange or piece of equipment in heavy liquid service that is found to be leaking on the basis of sight, smell or sound shall be repaired as soon as practicable but no later than 30 days after the leak is found.

(viii) Test immediately after repair any component that was found leaking.

(ix) Within one hour of its detection, a weatherproof, readily visible tag, in bright colors such as red or yellow, bearing an identification number and the date on which the leak was detected must be affixed on the leaking component and remain in place until the leaking component is repaired.

(x) The following components are exempt from the monitoring requirements in paragraph (i)(1) of this section:

(A) Any component that is in vacuum service, and

(B) Any pressure relief valve that is connected to an operating flare header or vapor recovery device.

(2) *Alternative program for leaks.* The Administrator shall approve an alternative program of monitoring,

recordkeeping, or reporting to that prescribed in paragraph (i) and subpart Q (sections 215.430, 215.431, 215.433, 215.434, 215.435, and 215.437) of Ill. Adm. Code 215 (incorporated by reference as specified in 40 CFR 52.742), upon a demonstration by the owner or operator of such plant that the alternative program will provide plant personnel and USEPA personnel with an equivalent ability to identify and repair leaking components. Any alternative program can only be allowed if approved by the Administrator as a SIP or FIP revision.

(j) *Petroleum refining and related industries: asphalt materials—(1) Monitoring program for leaks.* (i) The owner or operator of a petroleum refinery subject to subpart R (section 215.445) of Ill. Adm. Code 215 (incorporated by reference as specified in 40 CFR 52.742) shall, for the purpose of detecting leaks, conduct a component monitoring program consistent with the following provisions:

(A) Test once between March 1 and June 1 of each year, by methods referenced in paragraph (a)(4)(vii) of this section, all pump seals, pipeline valves in liquid service and process drains.

(B) Test once each quarter of each calendar year, by methods referenced in paragraph (a)(4)(vii) of this section, all pressure relief valves in gaseous service, pipeline valves in gaseous service and compressor seals.

(C) Inaccessible valves may be tested once each calendar year instead of once each quarter of each calendar year.

(D) Observe visually all pump seals weekly.

(E) Test immediately any pump seal from which liquids are observed dripping.

(F) Test any relief valve within 24 hours after it has vented to the atmosphere, and

(G) Test immediately after repair any component that was found leaking.

(ii) Storage tank valves and pressure relief devices connected to an operating flare header or vapor recovery device are exempt from the monitoring requirements in paragraph (j)(1)(i) of this section.

(iii) The Administrator may require more frequent monitoring than would otherwise be required by paragraph (j)(1)(i) of this section for components which are demonstrated to have a history of leaking.

(2) *Alternative program for leaks.* The Administrator may approve an alternative program of monitoring, recordkeeping or reporting to that prescribed in paragraph (j)(1) of this section and subpart R (sections 215.446, 215.448, and 215.449) of Ill. Adm. Code

215 (incorporated by reference as specified in 40 CFR 52.742), upon a demonstration by the owner or operator of a petroleum refinery that the alternative program will provide refinery and USEPA personnel with an equivalent ability to identify and repair leaking components. Any alternative program can only be allowed if approved by the Administrator as a SIP or FIP revision.

(3) *Compliance schedule for leaks.* The owner or operator of a petroleum refinery shall adhere to the increments of progress contained in the following schedule:

(i) Submit to the Administrator a monitoring program consistent with subpart R (section 215.446) of Ill. Adm. Code 215 (incorporated by reference as specified in 40 CFR 52.742) prior to September 1, 1990.

(ii) Submit to the Administrator the first monitoring report pursuant to subpart R (section 215.449) of Ill. Adm. Code 215 (incorporated by reference as specified in 40 CFR 52.742) prior to October 1, 1990.

(k)–(l) [Reserved]

(m) *Pharmaceutical manufacturing—(1) Applicability.* (i) The rules of paragraph (m) of this section, except for paragraphs (m)(4) through (m)(6) of this section, apply to all emission sources of VOM, including but not limited to reactors, distillation units, dryers, storage tanks for VOL, equipment for the transfer of VOL, filters, crystallizers, washers, laboratory hoods, pharmaceutical coating operations, mixing operations and centrifuges used in manufacturing, including packaging, of pharmaceuticals, and emitting more than 6.8 kg/day (15 lbs/day) and more than 2,268 kg/year (2.5 tons/year) of VOM. If an emission source emits less than 2,268 kg/year (2.5 tons/year) of VOM, the requirements of this paragraph still apply to the emission source if VOM emissions from the emission source exceed 45.4 kg/day (100 lbs/day).

(ii) Notwithstanding paragraph (m)(1)(i) of this section, the air suspension coater/dryer, fluid bed dryers, tunnel dryers, and Accelacotas located in Libertyville Township, Lake County, Illinois shall be exempt from the rules of paragraph (m) of this section, except for paragraphs (m)(4) through (m)(6) of this section, if emissions of VOM not vented to air pollution control equipment do not exceed the following levels:

(A) For the air suspension coater/dryer: 2,268 kg/year (2.5 tons/year);

(B) For each fluid bed dryer: 4,535 kg/year (5.0 tons/year);

(C) For each tunnel dryer: 6,803 kg/year (7.5 tons/year); and

(D) For each Accelacota: 6,803 kg/year (7.5 tons/year).

(iii) Paragraphs (m)(4) through (m)(6) of this section apply to a plant having one or more emission sources that:

(A) Are used to manufacture pharmaceuticals, and

(B) Emit more than 6.8 kg/day (15 lbs/day) of VOM and more than 2,268 kg/year (2.5 tons/year) of VOM, or, if less than 2,268 kg/year (2.5 tons/year), these paragraphs still apply if emissions from one or more sources exceed 45.4 kg/day (100 lbs/day).

(iv) No owner or operator shall violate any condition in a permit when the condition results in exclusion of an emission source from paragraph (m) of this section.

(v) Any pharmaceutical manufacturing source that becomes subject to the provisions of paragraph (m) of this section at any time shall remain subject to the provisions of paragraph (m) of this section at all times.

(vi) Emissions subject to paragraph (m) of this section shall be controlled at all times consistent with the requirements set forth in paragraph (m) of this section.

(vii) Control devices required pursuant to paragraph (m) of this section shall be operated at all times when the source it is controlling is operated.

(viii) Determinations of daily and annual emissions for purposes of paragraph (m)(1) of this section shall be made using both data on the hourly emission rate (or the emissions per unit of throughput) and appropriate daily and annual data from records of emission source operation (or material throughput or material consumption data). In the absence of representative test data pursuant to paragraph (m)(8) of this section for the hourly emission rate (or the emissions per unit of throughput), such items shall be calculated using engineering calculations, including the methods described in appendix B of "Control of Volatile Organic Emissions from Manufacturing of Synthesized Pharmaceutical Products" (EPA-450/2-78-029). (This subparagraph shall not affect the Administrator's authority to require emission tests to be performed pursuant to paragraph (m)(8) of this section.)

(2) *Control of reactors, distillation units, crystallizers, centrifuges and vacuum dryers.* (i) The owner or operator shall equip all reactors, distillation units, crystallizers, centrifuges and vacuum dryers that are used to manufacture pharmaceuticals with surface condensers or other air

pollution control equipment listed in paragraph (m)(2)(i)(B) of this section.

(A) If a surface condenser is used, it shall be operated such that the condenser outlet gas temperature does not exceed:

(1) 248.2 K (-13 °F) when condensing VOM of vapor pressure greater than 40.0 kPa (5.8 psi) at 294.3 K (70 °F), or

(2) 258.2 K (5 °F) when condensing VOM of vapor pressure greater than 20.0 kPa (2.9 psi) at 294.3 K (70 °F), or

(3) 273.2 K (32 °F) when condensing VOM of vapor pressure greater than 10.0 kPa (1.5 psi) at 294.3 K (70 °F), or

(4) 283.2 K (50 °F) when condensing VOM of vapor pressure greater than 7.0 kPa (1.0 psi) at 294.3 K (70 °F), or

(5) 298.2 K (77 °F) when condensing VOM of vapor pressure greater than 3.45 kPa (0.5 psi) at 294.3 K (70 °F).

(B) If a scrubber, carbon adsorption, thermal afterburner, catalytic afterburner, or other air pollution control equipment other than a surface condenser is used, such equipment shall provide a reduction in the emissions of VOM of 90 percent or more.

(ii) The owner or operator shall enclose all centrifuges used to manufacture pharmaceuticals and that have an exposed VOL surface, where the VOM in the VOL has a vapor pressure of 3.45 kPa (0.5 psi) or more at 294.3 K (70 °F), except as production, sampling, maintenance, or inspection procedures require operator access.

(3) *Control of air dryers, production equipment exhaust systems and filters.*

(i) The owner or operator of an air dryer or production equipment exhaust system used to manufacture pharmaceuticals shall control the emissions of VOM from such emission sources by air pollution control equipment which reduces by 90 percent or more the VOM that would otherwise be emitted into the atmosphere.

(ii) The owner or operator shall enclose all rotary vacuum filters and other filters used to manufacture pharmaceuticals and that have an exposed VOL surface, where the VOM in the VOL has a vapor pressure of 3.45 kPa (0.5 psi) or more at 294 K (70 °F), except as production, sampling, maintenance, or inspection procedures require operator access.

(4) *Material storage and transfer.* The owner or operator of a pharmaceutical manufacturing plant shall:

(i) Provide a vapor balance system that is at least 90 percent effective in reducing VOM emissions from truck or railcar deliveries to storage tanks with capacities equal to or greater than 7.57 m³ (2,000 gal) that store VOL with vapor pressures greater than 28.0 kPa (4.1 psi) at 294.3 K (70 °F), and

(ii) Install, operate, and maintain pressure/vacuum conservation vents set at 0.2 kPa (0.03 psi) or greater on all storage tanks that store VOL with vapor pressures greater than 10 kPa (1.5 psi) at 294.3 K (70 °F).

(5) *In-process tanks.* The owner or operator shall install covers on all in-process tanks used to manufacture pharmaceuticals and containing a VOL at any time. These covers must remain closed, except as production, sampling, maintenance or inspection procedures require operator access.

(6) *Leaks.* The owner or operator of a pharmaceutical manufacturing plant shall repair any component from which a leak of VOL can be observed. The repair shall be completed as soon as practicable but no later than 15 days after the leak is found. If the leaking component cannot be repaired until the process unit is shut down, the leaking component must then be repaired before the unit is restarted.

(7) *Other emission sources.* The owner or operator of a washer, laboratory hood, tablet coating operation, mixing operation or any other process emission source not subject to paragraphs (m)(2) through (m)(6) of this section, and used to manufacture pharmaceuticals shall control the emissions of VOM from such emission sources by:

(i) Air pollution control equipment which reduces by 81 percent or more the VOM that would otherwise be emitted to the atmosphere, or

(ii) A surface condenser which captures all the VOM which would otherwise be emitted to the atmosphere and which meets the requirements of paragraph (m)(2)(i) of this section.

(8) *Testing.* (i) Upon request by the Administrator, the owner or operator of any VOM emission source subject to paragraph (m) or exempt from paragraph (m) of this section by virtue of the provisions of paragraph (m)(1) of this section shall, at his own expense, demonstrate compliance to the Administrator by the methods or procedures listed in paragraph (a)(vi)(A) of this section.

(ii) A person planning to conduct a VOM emissions test to demonstrate compliance with paragraph (m) of this section shall notify the Administrator of that intent not less than 30 calendar days before the planned initiation of the test.

(9) *Monitoring and recordkeeping for air pollution control equipment—(i) Monitoring.* (A) At a minimum, continuous monitors for the following parameters shall be installed on air pollution control equipment used to

control sources subject to paragraph (m) of this section:

(1) Destruction device combustion temperature.

(2) Temperature rise across a catalytic afterburner bed.

(3) VOM concentration on a carbon adsorption unit to determine breakthrough.

(4) Outlet gas temperature of a refrigerated condenser.

(5) Temperature of a non-refrigerated condenser coolant supply system.

(B) Each monitor shall be equipped with a recording device.

(C) Each monitor shall be calibrated quarterly.

(D) Each monitor shall operate at all times while the associated control equipment is operating.

(ii) *Recordkeeping.* (A) The owner or operator of a pharmaceutical manufacturing facility shall maintain the following records:

(1) Parameters listed in paragraph (m)(9)(i)(A) of this section shall be recorded.

(2) For sources subject to paragraph (m)(2) of this section, the vapor pressure of VOM being controlled shall be recorded for every process.

(B) For any leak subject to paragraph (m)(6) of this section which cannot be readily repaired within one hour after detection, the following records shall be kept:

(1) The name of the leaking equipment,

(2) The date and time the leak is detected,

(3) The action taken to repair the leak, and

(4) The data and time the leak is repaired.

(C) The following records shall be kept for emission sources subject to paragraph (m)(5) of this section which contain VOL:

(1) For maintenance and inspection:

(i) The date and time each cover is opened,

(ii) The length of time the cover remains open, and

(iii) The reason why the cover is opened.

(2) For production and sampling, detailed written procedures or manufacturing directions specifying the circumstances under which covers may be opened and the procedures for opening covers.

(D) For each emission source used in the manufacture of pharmaceuticals for which the owner or operator of a pharmaceutical manufacturing plant claims emission standards are not applicable, because the emissions are below the applicability cutoffs in paragraph (m)(1)(i) of this section or

paragraph (m)(1)(ii) of this section the owner or operator shall:

(1) Maintain a demonstration including detailed engineering calculations of the maximum daily and annual emissions for each such emission source showing that the emissions are below the applicability cutoffs in paragraph (m)(1)(i) or paragraph (m)(1)(ii) of this section, as appropriate, for the current and prior calendar years;

(2) Maintain appropriate operating records for each such emission source to identify whether the applicability cutoffs in paragraph (m)(1)(i) or paragraph (m)(1)(ii) of this section, as appropriate, are ever exceeded; and

(3) Provide written notification to the Administrator within 30 days of a determination that such an emission source has exceeded the applicability cutoffs in paragraph (m)(1)(i) or paragraph (m)(1)(ii) of this section, as appropriate.

(E) Records required under paragraph (m)(9)(ii)(A) of this section shall be maintained by the owner or operator for a minimum of two years after the date on which they are made.

(F) Copies of the records shall be made available to the Administrator upon verbal or written request.

(n)—(p) [Reserved]

(q) *Gasoline distribution*—(1) *Bulk gasoline plants.* (i) Subject to paragraph (q)(1)(v) of this section, no person may cause or allow the transfer of gasoline from a delivery vessel into a stationary storage tank located at a bulk gasoline plant unless:

(A) The delivery vessel and the stationary storage tank are each equipped with a vapor collection system that meets the requirements of paragraph (q)(1)(iv)(D) of this section,

(B) Each vapor collection system is operating,

(C) The delivery vessel displays the appropriate sticker pursuant to the requirements of sections 215.584 (b) or (d) of 35 ILL. Adm. Code 215 (incorporated by reference as specified in 40 CFR 52.742),

(D) The pressure relief valve(s) on the stationary storage tank and the delivery vessel are set to release at no less than 0.7 psi or the highest pressure allowed by state or local fire codes or the guidelines of the National Fire Prevention Association, and

(E) The stationary storage tank is equipped with a submerged loading pipe.

(ii) Subject to paragraph (q)(1)(vi) of this section, no person may cause or allow the transfer of gasoline from a stationary storage tank located at a bulk gasoline plant into a delivery vessel unless:

(A) The requirements set forth in paragraphs (q)(1)(i)(A) through (1)(i)(D) of this section are met, and

(B) Equipment is available at the bulk gasoline plant to provide for the submerged filling of the delivery vessel or the delivery vessel is equipped for bottom loading.

(iii) Subject to paragraph (q)(1)(v) of this section, each owner of a stationary storage tank located at a bulk gasoline plant shall:

(A) Equip each stationary storage tank with a vapor control system that meets the requirements of paragraph (q)(1)(i) or (1)(ii) of this section, whichever is applicable,

(B) Provide instructions to the operator of the bulk gasoline plant describing necessary maintenance operations and procedures for prompt notification of the owner in case of any malfunction of a vapor control system, or

(C) Repair, replace or modify any worn out or malfunctioning component or element of design.

(iv) Subject to paragraph (q)(1)(v) of this section, each operator of a bulk gasoline plant shall:

(A) Maintain and operate each vapor control system in accordance with the owner's instructions,

(B) Promptly notify the owner of any scheduled maintenance or malfunction requiring replacement or repair of a major component of a vapor control system, and

(C) Maintain gauges, meters or other specified testing devices in proper working order,

(D) Operate the bulk plant vapor collection system and gasoline loading equipment in a manner that prevents:

(1) Gauge pressure from exceeding 45.7 cm (18 in.) of water and vacuum from exceeding 15.2 cm (6 in.) of water, as measured as close as possible to the vapor hose connection, and

(2) A reading equal to or greater than 100 percent of the lower explosive limit (LEL measured as propane) when tested in accordance with the procedure described in "Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems", Appendix B, EPA 450/2-78-051 (which is available for purchase from the National Technical Information Services, 5285 Port Royal Road, Springfield, Virginia, 22161), and

(3) Avoidable leaks of liquid during loading or unloading operations.

(E) Provide a pressure tap or equivalent on the bulk plant vapor collection system in order to allow the determination of compliance with

paragraph (q)(1)(iv)(D)(1) of this section, and

(F) Within 15 business days after discovery of any leak by the owner, operator, or the Administrator, repair and retest a vapor collection system which exceeds the limits of paragraph (q)(1)(iv)(D)(1) or (2) of this section.

(v) The requirements of paragraphs (q)(1)(i), (1)(iii) and (1)(iv) of this section, shall not apply to:

(A) Any stationary storage tank with a capacity of less than 2,177 l (575 gal), or

(B) Any bulk gasoline plant whose daily gasoline throughput is less than 15,140 l (4,000 gal/day) on a thirty-day rolling average.

(vi) The requirements of paragraph (q)(1)(ii) of this section shall only apply to bulk gasoline plants:

(A) Whose daily gasoline throughput is greater than or equal to 15,140 l (4,000 gal/day) on a thirty-day rolling average, and

(B) That either distribute gasoline to gasoline dispensing facilities subject to the requirements of section 215.583(a)(2) of 35 Ill. Adm. Code 215 (incorporated by reference as specified in 40 CFR 52.742) or that are in Cook, DuPage, Kane, Lake, McHenry or Will County.

(vii) Any bulk gasoline plant which is ever subject to paragraphs (q)(1)(i), (ii), (iii) or (iv) of this section shall always be subject to these paragraphs.

(2) [Reserved]

(r) [Reserved]

(s) *Paint and ink manufacturing*—(1) *Applicability.* (i) Paragraph (s) shall apply to all paint and ink manufacturing plants which:

(A) Include process emission sources not subject to subparts (B), (Q) (excluding sections 215.432 and 215.436), (R) (excluding sections 215.447, 215.450, and 215.452), (S), (V), (X), (Y) (sections 215.582, 215.583, and 215.584), or (Z) of 35 Ill. Adm. Code 215 (incorporated by reference as specified in 40 CFR 52.742), or to paragraphs (d), (e) (excluding paragraph (e)(1)(i)(L)), (h) (excluding paragraph (h)(5)), (i), (j), or (q)(1) of this section; and which as a group both:

(1) Have maximum theoretical emissions of 91 Mg (100 tons) or more per calendar year of VOM if no air pollution control equipment were used, and

(2) Are not limited to less than 91 Mg (100 tons) of VOM emissions per calendar year in the absence of air pollution control equipment, through production or capacity limitations contained in a federally enforceable construction permit or a SIP or FIP revision, or

(B) Produce more than 7,570,820 l (2,000,000 gal) per calendar year of paint

or ink formulations, which contain less than 10 percent (by weight) water, and ink formulations not containing as the primary solvents water, Magie oil or glycol.

(ii) For the purposes of paragraph (s) of this section, uncontrolled VOM emissions are the emissions of VOM which would result if no air pollution control equipment were used.

(2) *Exemption for waterbase material and heatset-offset ink.* The requirements of paragraphs (s)(4) and (s)(5) of this section and paragraph (s)(7)(i) of this section shall not apply to equipment while it is being used to produce either:

(i) Paint or ink formulations which contain 10 percent or more (by weight) water, or

(ii) Inks containing Magie oil and glycol as the primary solvent.

(3) *Permit conditions.* No person shall violate any condition in a federally enforceable permit when the condition results in exclusion of the plant or an emission source from paragraph (s).

(4) *Open-top mills, tanks, vats or vessels.* No person shall operate an open-top mill, tank, vat or vessel with a volume of more than 45 l (12 gal) for the production of paint or ink unless:

(i) The mill, tank, vat or vessel is equipped with a cover which completely covers the mill, tank, vat or vessel opening except for an opening no larger than necessary to allow for safe clearance for a mixer shaft. Such cover shall extend at least 1.27 cm (0.5 in.) beyond the outer rim of the opening or be attached to the rim.

(ii) The cover remains closed except when production, sampling, maintenance or inspection procedures require access.

(iii) The cover is maintained in good condition such that, when in place, it maintains contact with the rim of the opening for at least 90 percent of the circumference of the rim.

(5) *Grinding mills.* (i) No person shall operate a grinding mill for the production of paint or ink which is not maintained in accordance with the manufacturer's specifications.

(ii) No person shall operate a grinding mill fabricated or modified after the effective date of paragraph (s) which is not equipped with fully enclosed screens.

(iii) The manufacturer's specifications shall be kept on file at the plant by the owner or operator of the grinding mill and be made available to any person upon verbal or written request during business hours.

(6) *Storage tanks.* (i) The owner or operator shall equip tanks storing VOL with a vapor pressure greater than 10 kPa (1.5 psi) at 20 °C (68 °F) with

pressure/vacuum conservation vents set as a minimum at ± 0.2 kPa (0.029 psi). These controls shall be operated at all times. An alternative air pollution control system may be used if it results in a greater emission reduction than these controls. Any alternative control system can only be allowed if approved by the Administrator as a SIP or FIP revision.

(ii) Stationary VOL storage containers with a capacity greater than 946 l (250 gal) shall be equipped with a submerged-fill pipe or bottom fill. These controls shall be operated at all times. An alternative control system can only be allowed if approved by the Administrator as a SIP or FIP revision.

(7) *Leaks.* The owner or operator of a paint or ink manufacturing plant shall, for the purpose of detecting leaks, conduct an equipment monitoring program as set forth below:

(i) Each pump shall be checked by visual inspection each calendar week for indications of leaks, that is, liquids dripping from the pump seal. If there are indications of liquids dripping from the pump seal, the pump shall be repaired as soon as practicable, but no later than 15 calendar days after the leak is detected.

(ii) Any pump, valve, pressure relief valve, sampling connection, open-ended valve and flange or connector containing a fluid which is at least 10 percent VOM by weight which appears to be leaking on the basis of sight, smell or sound shall be repaired as soon as practicable, but no later than 15 calendar days after the leak is detected.

(iii) A weather proof, readily visible tag, in bright colors such as red or yellow, bearing an identification number and the date on which the leak was detected shall be attached to leaking equipment. The tag may be removed upon repair, that is, when the equipment is adjusted or otherwise altered to allow operation without leaking.

(iv) When a leak is detected, the owner or operator shall record the date of detection and repair and the record shall be retained at the plant for at least two years from the date of each detection or each repair attempt. The record shall be made available to any person upon verbal or written request during business hours.

(8) *Clean up.* (i) No person shall clean paint or ink manufacturing equipment with organic solvent unless the equipment being cleaned is completely covered or enclosed except for an opening no larger than necessary to allow safe clearance for proper operation of the cleaning equipment,

considering the method and materials being used.

(ii) No person shall store organic wash solvent in other than closed containers, unless closed containers are demonstrated to be a safety hazard, or dispose of organic wash solvent in a manner such that more than 20 percent by weight is allowed to evaporate into the atmosphere.

(9) *Compliance schedule.* Every owner or operator of an emission source subject to the control requirements of paragraph (s) of this section shall comply with the requirements of paragraph (s) of this section on and after July 1, 1991.

(10) *Recordkeeping and reporting.* (i) Upon request by the Administrator, the owner or operator of an emission source which claims to be exempt from the requirements of paragraph (s) of this section shall submit records to the Administrator within 30 calendar days from the date of the request which document that the emission source is in fact exempt from paragraph (s) of this section. These records shall include (but are not limited to) the percent water (by weight) in the paint or ink being produced and the quantity of Magie oil, glycol and other solvents in the ink being produced.

(ii) Every owner or operator of an emission source which is subject to the requirements of paragraph (s) of this section shall maintain all records necessary to demonstrate compliance with those requirements at the facility for three years.

(t) [Reserved]

(u) *Miscellaneous fabricated product manufacturing processes—(1) Applicability.*

(i) The requirements of paragraph (u) of this section shall apply to a plant's miscellaneous fabricated product manufacturing process emission sources which are not included within any of the source categories specified in subparts (B), (Q) (excluding sections 215.432 and 215.436), (R) (excluding sections 215.447, 215.450, and 215.452), (S), (V), (X), (Y) (sections 215.582, 215.583, and 215.584), or (Z) of 35 Ill. Adm. Code 215 (incorporated by reference as specified in 40 CFR 52.742), or specified in paragraph (d), (e), (h), (i), (j), or (q)(1) of this section; if the plant is subject to paragraph (u) of this section if it contains process emission sources, not regulated by subparts (B), (Q) (excluding sections 215.432 and 215.436), (R) (excluding sections 215.447, 215.450, and 215.452), (S), (V), (X), (Y) (sections 215.582, 215.583, 215.584), or (Z) of 35 Ill. Adm. Code 215 (incorporated by reference as specified in 40 CFR 52.742),

or by paragraph (d), (e) (excluding paragraph (e)(1)(i)(L)), (h) (excluding paragraph (h)(5)), (i), (j), or (q)(1) of this section; which as a group both:

(A) Have maximum theoretical emissions of 91 Mg (100 tons) or more per calendar year of VOM if no air pollution control equipment were used, and

(B) Are not limited to less than 91 Mg (100 tons) of VOM emissions per calendar year in the absence of air pollution control equipment, through production or capacity limitations contained in a federally enforceable construction permit or a SIP or FIP revision.

(ii) If a plant ceases to fulfill the criteria of paragraph (u)(1)(i) of this section, the requirements of paragraph (u) of this section shall continue to apply to a miscellaneous fabricated products manufacturing process emission source which was ever subject to the control requirements of paragraph (u)(3) of this section.

(iii) No limits under paragraph (u) of this section shall apply to emission sources with emissions of VOM to the atmosphere less than or equal to 0.91 Mg (1.0 ton) per calendar year if the total emissions from such sources not complying with paragraph (u)(3) of this section does not exceed 4.5 Mg (5.0 tons) per calendar year.

(iv) For the purposes of paragraph (u) of this section, an emission source shall be considered regulated by a subpart (of the Illinois rules) or paragraph if it is subject to the limits of that subpart (of the Illinois rules) or paragraph. An emission source is not considered regulated by a subpart (of the Illinois rules) or paragraph if its emissions are below the applicability cutoff level or if the source is covered by an exemption.

(v) For the purposes of paragraph (u) of this section, uncontrolled VOM emissions are the emissions of VOM which would result if no air pollution control equipment were used.

(2) *Permit conditions.* No person shall violate any condition in a permit when the condition results in exclusion of the plant or an emission source from paragraph (u) of this section.

(3) *Control requirements.* Every owner or operator of an emission source subject to paragraph (u) of this section shall comply with the requirements of paragraph (u)(3) (i), (ii) or (iii) of this section:

(i) Emission capture and control techniques which achieve an overall reduction in uncontrolled VOM emissions of at least 81 percent, or

(ii) For coating lines, the daily-weighted average VOM content shall not exceed 0.42 kg VOM/1 (3.5 lbs

VOM/gal) of coating as applied (minus water and any compounds which are specifically exempted from the definition of VOM) during any day.

Owners and operators complying with this paragraph are not required to comply with § 215.301 of 35 Ill. Adm. Code 215 (incorporated by reference as specified in 40 CFR 52.742), or

(iii) An alternative control plan which has been approved by the Administrator as a SIP or FIP revision.

(4) *Compliance schedule.* Every owner or operator of an emission source subject to the control requirements of paragraph (u) of this section shall comply with the requirements of paragraph (u) of this section on and after July 1, 1991.

(5) *Testing.* Any owner or operator of a VOM emission source which is subject to paragraph (u) of this section shall demonstrate compliance with paragraph (u)(3) of this section by using the applicable test methods and procedures specified in paragraph (a)(4) of this section.

(v) *Miscellaneous formulation manufacturing processes—(1)*

Applicability. (i) The requirements of paragraph (v) of this section shall apply to a plant's miscellaneous formulation manufacturing process emission sources, which are not included within any of the source categories specified in subpart (B), (Q) (excluding §§ 215.432 and 215.436), (R) (excluding §§ 215.447, 215.450, and 215.452), (S), (V), (X), (Y) (§§ 215.582, 215.583, and 215.584), or (Z) of 35 Ill. Adm. Code 215 (incorporated by reference as specified in 40 CFR 52.742), or specified in paragraph (d), (e), (h), (i), (j), or (q)(1) of this section; if the plant is subject to paragraph (v) of this section. A plant is subject to paragraph (v) of this section if it contains process emission sources, not regulated by subpart (B), (Q) (excluding §§ 215.432 and 215.436), (R) (excluding §§ 215.447, 215.450, and 215.452), (S), (V), (X), (Y) (§§ 215.582, 215.583, and 215.584), or (Z) of 35 Ill. Adm. Code 215 (incorporated by reference as specified in 40 CFR 52.742), or by paragraph (d), (e) (excluding paragraph (e)(1)(i)(L)), (h) (excluding paragraph (h)(5)), (i), (j), or (q)(1) of this section; which as a group both:

(A) Have maximum theoretical emissions of 91 Mg (100 tons) or more per calendar year of VOM if no air pollution control equipment were used, and

(B) Are not limited to less than 91 Mg (100 tons) of VOM emissions per calendar year in the absence of air pollution control equipment, through production or capacity limitations

contained in a federally enforceable construction permit or a SIP or FIP revision.

(ii) If a plant ceases to fulfill the criteria of paragraph (v)(1)(i) of this section, the requirements of paragraph (v) of this section shall continue to apply to a miscellaneous organic chemical manufacturing process emission source which was ever subject to the control requirements of paragraph (v)(3) of this section.

(iii) No limits under paragraph (v) of this section shall apply to emission sources with emissions of VOM to the atmosphere less than or equal to 2.3 Mg (2.5 tons) per calendar year if the total emissions from such sources not complying with paragraph (v)(3) of this section does not exceed 4.5 Mg (5.0 tons) per calendar year.

(iv) For the purposes of paragraph (v) of this section, an emission source shall be considered regulated by a subpart (of the Illinois rules) or paragraph if it is subject to the limits of that subpart (of the Illinois rules) or paragraph. An emission source is not considered regulated by a subpart (of the Illinois rules) or paragraph if its emissions are below the applicability cutoff level or if the source is covered by an exemption.

(v) For the purposes of paragraph (v) of this section uncontrolled VOM emissions are the emissions of VOM which would result if no air pollution control equipment were used.

(2) *Permit conditions.* No person shall violate any condition in a permit when the condition results in exclusion of the plant or an emission source from paragraph (v) of this section.

(3) *Control requirements.* Every owner or operator of an emission source subject to paragraph (v) of this section shall comply with the requirements of paragraph (v)(3) (i) or (ii) of this section.

(i) Emission capture and control techniques which achieve an overall reduction in uncontrolled VOM emissions of at least 81 percent, or

(ii) An alternative control plan which has been approved by the Administrator as a SIP or FIP revision.

(4) *Compliance schedule.* Every owner or operator of an emission source subject to the control requirements of paragraph (v) of this section shall comply with the requirements of paragraph (v) of this section on and after July 1, 1991.

(5) *Testing.* Any owner or operator of a VOM emission source which is subject to paragraph (v) of this section shall demonstrate compliance with paragraph (v)(3) of this section by using the applicable test methods and procedures specified in paragraph (a)(4) of this section.

(w) *Miscellaneous organic chemical manufacturing processes—(1)*

Applicability. (i) The requirements of paragraph (w) of this section shall apply to a plant's miscellaneous organic chemical manufacturing process emission sources which are not included within any of the source categories specified in subparts (B), (Q) (excluding sections 215.432 and 215.436), (R) (excluding sections 215.447, 215.450, and 215.452), (S), (V), (X), (Y) (sections 215.582, 215.583, and 215.584), or (Z) of 35 Ill. Adm. Code 215 (incorporated by reference as specified in 40 CFR 52.742), or specified in paragraph (d), (e), (h), (i), (j), or (q)(1) of this section; if the plant is subject to paragraph (w) of this section. A plant is subject to paragraph (w) of this section if it contains process emission sources, not regulated by subparts (B), (Q) (excluding sections 215.432 and 215.436), (R) (excluding sections 215.447, 215.450, and 215.452), (S), (V), (X), (Y) (sections 215.582, 215.583, and 215.584), or (Z) of 35 Ill. Adm. Code 215 (incorporated by reference as specified in 40 CFR 52.742), or by paragraph (d), (e) (excluding paragraph (e)(1)(i)(L)), (h) (excluding paragraph (h)(5)), (i), (j), or (q)(1) of this section; which as a group both:

(A) Have maximum theoretical emissions of 91 Mg (100 tons) or more per calendar year of VOM if no air pollution control equipment were used, and

(B) Are not limited to less than 91 Mg (100 tons) of VOM emissions per calendar year in the absence of air pollution control equipment, through production or capacity limitations contained in a federally enforceable construction permit or a SIP or FIP revision.

(ii) If a plant ceases to fulfill the criteria of paragraph (w)(1)(i) of this section, the requirements of paragraph (w) of this section shall continue to apply to a miscellaneous organic chemical manufacturing process emission source which was ever subject to the control requirements of paragraph (w)(3) of this section.

(iii) No limits under paragraph (w) of this section shall apply to emission sources with emissions of VOM to the atmosphere less than or equal to 0.91 Mg (1.0 ton) per calendar year if the total emissions from such sources not complying with paragraph (w)(3) of this section does not exceed 4.5 Mg (5.0 tons) per calendar year.

(iv) For the purposes of paragraph (w) of this section, an emission source shall be considered regulated by a subpart (of the Illinois rules) or paragraph if it is subject to the limits of that subpart (of the Illinois rules) or paragraph. An

emission source is not considered regulated by a subpart (of the Illinois rules) or paragraph if its emissions are below the applicability cutoff level or if the source is covered by an exemption.

(v) For the purposes of paragraph (w) of this section, uncontrolled VOM emissions are the emissions of VOM which would result if no air pollution control equipment were used.

(2) *Permit conditions.* No person shall violate any condition in a permit when the condition results in exclusions of the plant or an emission source from paragraph (w) of this section.

(3) *Control requirements.* Every owner or operator of an emission source subject to paragraph (w) of this section shall comply with the requirements of paragraph (w)(3)(i) or (ii) of this section.

(i) Emission capture and control techniques which achieve an overall reduction in uncontrolled VOM emissions of at least 81 percent, or

(ii) An alternative control plan which has been approved by the Administrator as a SIP or FIP revision.

(4) *Compliance schedule.* Every owner or operator of an emission source subject to the control requirements of paragraph (w) of this section shall comply with the requirements of paragraph (w) of this section on and after July 1, 1991.

(5) *Testing.* Any owner or operator of a VOM emission source which is subject to paragraph (w) shall demonstrate compliance with paragraph (w)(3) of this section by using the applicable test methods and procedures specified in paragraph (a)(4) of this section.

(x) *Other emission sources—(1)*
Applicability. (i) The requirements of paragraph (x) of this section shall apply to a plant's VOM emission sources, which are not included within any of the source categories specified in subpart (B), (Q) (excluding sections 215.432 and 215.436), (R) (excluding sections 215.447, 215.450, and 215.452), (S), (V), (X), (Y) (sections 215.582, 215.583, and 215.584), or (Z) of 35 Ill. Adm. Code 215 (incorporated by reference as specified in 40 CFR 52.742), or specified in paragraph (d), (e), (h), (i), (j), (q)(1), (s), (u), (v) or (w) of this section; if the plant is subject to paragraph (x) of this section. A plant is subject to paragraph (x) of this section if it contains process emission sources, not regulated by subpart (B), (Q) (excluding sections 215.432 and 215.436), (R) (excluding sections 215.447, 215.450, and 215.452), (S), (V), (X), (Y) (sections 215.582, 215.583, and 215.584), or (Z) of 35 Ill. Adm. Code 215 (incorporated by reference as specified in 40 CFR 52.742), or by paragraph (d), (e) of this section

(excluding paragraph (e)(1)(i)(L)), (h) (excluding paragraph (h)(5)), (i), (j), or (q)(1) of this section; which as a group both:

(A) Have maximum theoretical emissions of 91 Mg (100 tons) or more per calendar year of VOM if no air pollution control equipment were used, and

(B) Are not limited to less than 91 Mg (100 tons) of VOM emissions per calendar year in the absence of air pollution control equipment, through production or capacity limitations contained in a federally enforceable construction permit or a SIP of FIP revision.

(ii) If a plant ceases to fulfill the criteria of paragraph (x)(1)(i) of this section, the requirements of paragraph (x) of this section shall continue to apply to an emission source which was ever subject to the control requirements of paragraph (x)(3) of this section.

(iii) No limits under paragraph (x) of this section shall apply to emission sources with emissions of VOM to the atmosphere less than or equal to 2.3 Mg (2.5 tons) per calendar year if the total emissions from such sources not complying with paragraph (x)(3) of this section does not exceed 4.5 Mg (5.0 tons) per calendar year.

(iv) For the purposes of paragraph (x) of this section, an emission source shall be considered regulated by a subpart (of the Illinois rules) or paragraph if it is subject to the limits of that subpart (of the Illinois rules) or paragraph. An emission source is not considered regulated by a subpart (of the Illinois rules) or paragraph if its emissions are below the applicability cutoff level or if the source is covered by an exemption.

(v) The control requirements in paragraphs (u), (v), (w), and (x) of this section shall not apply to sewage treatment plants, vegetable oil processing plants, coke ovens (including by-product recovery plants), fuel combustion sources, bakeries, barge loading facilities, jet engine test cells, pharmaceutical manufacturing, production of polystyrene foam insulation board (including storage and extrusion of scrap where blowing agent is added to the polystyrene resin at the plant), production of polystyrene foam packaging (not including storage and extrusion of scrap where blowing agent is added to the polystyrene resin at the plant), and iron and steel production.

(2) *Permit conditions.* No person shall violate any condition in a permit when the condition results in exclusion of the plant or an emission source from paragraph (x) of this section.

(3) *Control requirements.* Every owner or operator of an emission source

subject to paragraph (x) of this section shall comply with the requirements of paragraph (x)(3) (i), (ii) or (iii) of this section.

(i) Emission capture and control equipment which achieve an overall reduction in uncontrolled VOM emissions of at least 81 percent, or

(ii) For coating lines, the daily-weighted average VOM content shall not exceed 0.42 kg VOM/l (3.5 lbs VOM/gal) of coating (minus water and any compounds which are specifically exempted from the definition of VOM) as applied during any day. Owners and operators complying with this paragraph are not required to comply with section 215.301 of 35 Ill. Adm. Code 215 (incorporated by reference as specified in 40 CFR 52.742), or

(iii) An alternative control plan which has been approved by the Administrator as a SIP or FIP revision.

(4) *Compliance schedule.* Every owner or operator of an emissions source which is subject to paragraph (x) of this section shall comply with the requirements of paragraph (x) of this section on and after July 1, 1991.

(5) *Testing.* Any owner or operator of a VOM emission source which is subject to paragraph (x) of this section shall demonstrate compliance with paragraph (x)(3) of this section by using the applicable test methods and procedures specified in paragraph (a)(4) of this section.

(y) *Recordkeeping and reporting for non-CTG sources.*—(1) *Exempt emission sources.* Upon request by the Administrator, the owner or operator of an emission source which is exempt from the requirements of paragraphs (u), (v), (w), (x), or (e)(3)(ii) of this section shall submit records to the Administrator within 30 calendar days from the date of the request that document that the emission source is exempt from those requirements.

(2) *Subject emission sources.* (i) Any owner or operator of a VOM emission source which is subject to the requirements of paragraph (u), (v), (w) or (x) of this section and complying by the use of emission capture and control equipment shall comply with the following:

(A) By July 1, 1991, or upon initial start-up of a new emission source, the owner or operator of the subject VOM emission source shall perform all tests and submit to the Administrator the results of all tests and calculations necessary to demonstrate that the subject emission source will be in compliance on and after July 1, 1991, or on and after the initial start-up date.

(B) On and after July 1, 1991, or on and after the initial start-up date, the owner

or operator of a subject VOM emission source shall collect and record all of the following information each day and maintain the information at the facility for a period of three years:

(1) Control device monitoring data.

(2) A log of operating time for the capture system, control device, monitoring equipment and the associated emission source.

(3) A maintenance log for the capture system, control device and monitoring equipment detailing all routine and non-routine maintenance performed including dates and duration of any outages.

(C) On and after July 1, 1991, the owner or operator of a subject VOM emission source shall notify the Administrator in the following instances:

(1) Any record showing a violation of the requirements of paragraphs (u), (v), (w), or (x) of this section shall be reported by sending a copy of such record to the Administrator within 30 days following the occurrence of the violation.

(2) At least 30 calendar days before changing the method of compliance with paragraphs (u) or (x) of this section from the use of capture systems and control devices to the use of complying coatings, the owner or operator shall comply with all requirements of paragraph (y)(2)(ii)(A) of this section. Upon changing the method of compliance with paragraphs (u) or (x) of this section from the use of capture systems and control devices to the use of complying coatings, the owner or operator shall comply with all requirements of paragraph (y)(2)(ii) of this section.

(ii) Any owner or operator of a coating line which is subject to the requirements of paragraphs (u) or (x) of this section and complying by means of the daily-weighted average VOM content limitation shall comply with the following:

(A) By July 1, 1991, or upon initial start-up of a coating line subject to paragraph (u) or (x) of this section; the owner or operator of the subject coating line shall certify to the Administrator that the coating line will be in compliance on and after July 1, 1991, or on and after the initial start-up date. Such certification shall include:

(1) The name and identification number of each coating line which will comply by means of the daily-weighted average VOM content limitation.

(2) The name and identification number of each coating as applied on each coating line.

(3) The weight of VOM per volume and the volume of each coating (minus

water and any compounds which are specifically exempted from the definition of VOM) as applied each day on each coating line.

(4) The instrument or method by which the owner or operator will accurately measure or calculate the volume of each coating as applied each day on each coating line.

(5) The method by which the owner or operator will create and maintain records each day as required in paragraph (y)(2)(ii)(B) of this section.

(6) An example of the format in which the records required in paragraph (y)(2)(ii)(B) of this section will be kept.

(B) On and after July 1, 1991, or on and after the initial start-up date, the owner or operator of a subject coating line shall collect and record all of the following information each day for each coating line and maintain the information at the facility for a period of three years:

(1) The name and identification number of each coating as applied on each coating line.

(2) The weight of VOM per volume and the volume of each coating (minus water and any compounds which are specifically exempted from the definition of VOM) as applied each day on each coating line.

(3) The daily-weighted average VOM content of all coatings as applied on each coating line as defined in paragraph (a)(3) of this section.

(C) On and after July 1, 1991, the owner or operator of a subject coating line shall notify the Administrator in the following instances:

(1) Any record showing violation of the requirements of paragraph (u) or (x) of this section shall be reported by sending a copy of such record to the Administrator within 30 days following the occurrence of the violation.

(2) At least 30 calendar days before changing the method of compliance with paragraph (u) or (x) of this section from the use of complying coatings to the use capture systems and control devices, the owner or operator shall comply with all requirements of paragraph (y)(2)(i)(A) of this section. Upon changing the method of compliance with paragraphs (u) or (x) of this section from the use of complying coatings to the use capture systems and control devices, the owner or operator shall comply with all requirements of paragraph (y)(2)(i) of this section.

(iii) Any owner or operator of a VOM emission source which is subject to the requirements of paragraphs (u), (v), (w) or (x) of this section and complying by means of an alternative control plan which has been approved by the Administrator as a SIP or FIP revision shall comply with the recordkeeping and

reporting requirements specified in the alternative control plan.

(z) [Reserved]

Appendix A—List of Chemicals Defining Synthetic Organic Chemical and Polymer Manufacturing

OCPDB No. ¹	Chemical
20	Acetal.
30	Acetaldehyde.
40	Acetaldehyde.
50	Acetamide.
65	Acetanilide.
70	Acetic acid.
80	Acetic anhydride.
90	Acetone.
100	Acetone cyanohydrin.
110	Acetonitrile.
120	Acetophenone.
125	Acetyl chloride.
130	Acetylene.
140	Acrolein.
150	Acrylamide.
160	Acrylic acid & esters.
170	Acrylonitrile.
180	Adipic acid.
185	Adiponitrile.
190	Alkyl naphthalenes.
200	Allyl alcohol.
210	Allyl chloride.
220	Aminobenzoic acid.
230	Aminoethylethanolamine.
235	p-aminophenol.
240	Amyl acetates.
250	Amyl alcohols.
260	Amyl amine.
270	Amyl chloride.
280	Amyl mercaptans.
290	Amyl phenol.
300	Aniline.
310	Aniline hydrochloride.
320	Anisidine.
330	Anisole.
340	Anthranilic acid.
350	Antraquinone.
360	Benzaldehyde.
370	Benzamide.
380	Benzene.
390	Benzenedisulfonic acid.
400	Benzene-sulfonic acid.
410	Benzil.
420	Benzilic acid.
430	Benzoic acid.
440	Benzoic.
450	Benzonitrile.
460	Benzophenone.
480	Benzotrichloride.
490	Benzoyl chloride.
500	Benzyl alcohol.
510	Benzyl amine.
520	Benzyl benzoate.
530	Benzyl chloride.
540	Benzyl dichloride.
550	Biphenyl.
560	Bisphenol A.
570	Bromobenzene.
580	Bromonaphthalene.
590	Butadiene.
592	1-butene.
600	n-butyl acetate.
630	n-butyl acrylate.
640	n-butyl alcohol.
650	s-butyl alcohol.
660	t-butyl alcohol.
670	n-butylamine.
680	s-butylamine.
690	t-butylamine.
700	p-tert-butyl benzoic acid.
750	n-butyraldehyde.
760	Butyric acid.
770	Butyric anhydride.

OCPDB No. ¹	Chemical
780	Butyronitrile.
785	Caprolactam.
790	Carbon disulfide.
800	Carbon tetrabromide.
810	Carbon tetrachloride.
820	Cellulose acetate.
840	Chloroacetic acid.
850	m-chloroaniline.
860	o-chloroaniline.
870	p-chloroaniline.
880	Chlorobenzaldehyde.
890	Chlorobenzene.
900	Chlorobenzoic acid.
905	Chlorobenzotrithiolide.
910	Chlorobenzoyl chloride.
920	Chlorodifluoromethane.
921	Chlorodifluoromethane.
930	Chloroform.
940	Chloronaphthalene.
950	o-chloronitrobenzene.
951	p-chloronitrobenzene.
960	Chlorophenols.
964	Chloroprene.
965	Chlorosulfonic acid.
970	m-chlorotoluene.
980	o-chlorotoluene.
990	p-chlorotoluene.
992	Chlorotrifluoromethane.
1000	m-cresol.
1010	o-cresol.
1020	p-cresol.
1021	Mixed cresols.
1030	Cresylic acid.
1040	Crystalline aldehyde.
1050	Crystalline acid.
1060	Cumene.
1070	Cumene hydroperoxide.
1080	Cyanoacetic acid.
1090	Cyanogen chloride.
1100	Cyanuric acid.
1110	Cyanuric chloride.
1120	Cyclohexane.
1130	Cyclohexanol.
1140	Cyclohexanone.
1150	Cyclohexene.
1160	Cyclohexylamine.
1170	Cyclooctadiene.
1180	Decanol.
1190	Diacetone alcohol.
1200	Diaminobenzoic acid.
1210	Dichloroaniline.
1215	m-dichlorobenzene.
1218	o-dichlorobenzene.
1220	p-dichlorobenzene.
1221	Dichlorodifluoromethane.
1240	Dichloroethyl ether 1,2-dichloroethane.
1250	Dichlorohydrin.
1270	Dichloropropene.
1280	Dicyclohexylamine.
1290	Diethylamine.
1300	Diethylene glycol.
1304	Diethylene glycol diethyl ether.
1305	Diethylene glycol dimethyl ether.
1310	Diethylene glycolmonobutyl ether.
1320	Diethylene glycolmonobutyl ether acetate.
1330	Diethylene glycolmonoethyl ether.
1340	Diethylene glycolmonoethyl ether acetate.
1360	Diethylene glycolmonomethyl ether.
1420	Diethyl sulfate.
1430	Diffuoroethane.
1440	Diisobutylene.
1442	Diisodecyl phthalate.
1444	Diisooctyl phthalate.
1450	Diketene.
1460	Dimethylamine.
1470	N,N-dimethylaniline.
1480	N,N-dimethyl ether.
1490	N,N-dimethylformamide.
1495	Dimethylhydrazine.

OCPDB No. ¹	Chemical	OCPDB No. ²	Chemical	OCPDB No. ³	Chemical
1500.....	Dimethyl sulfate.	2340.....	Isophthalic acid.	3100.....	Propylene chlorohydrin.
1510.....	Dimethyl sulfide.	2350.....	Isoprene.	3110.....	Propylene dichloride.
1520.....	Dimethylsulfoxide.	2360.....	Isopropanol.	3111.....	Propylene glycol.
1530.....	Dimethylterephthalate.	2370.....	Isopropyl acetate.	3120.....	Propylene oxide.
1540.....	3,5-dinitrobenzoic acid.	2380.....	Isopropylamine.	3130.....	Pyridine.
1545.....	Dinitrophenol.	2390.....	Isopropyl chloride.	3140.....	Quinone.
1560.....	Dioxane.	2400.....	Isopropylphenol.	3150.....	Resorcinol.
1570.....	Dioxolane.	2410.....	Ketene.	3160.....	Resorcylic acid.
1580.....	Diphenylamine.	2414.....	Linear alkylsulfonate.	3170.....	Salicylic acid.
1590.....	Diphenyl oxide.	2417.....	Linear alkylbenzene.	3180.....	Sodium acetate.
1600.....	Diphenyl thiourea.	2420.....	Maleic acid.	3181.....	Sodium benzoate.
1610.....	Dipropylene glycol.	2430.....	Maleic anhydride.	3190.....	Sodium carboxymethylcellulose.
1620.....	Dodecene.	2440.....	Malic acid.	3191.....	Sodium chloroacetate.
1630.....	Dodecylaniline.	2450.....	Mesityl oxide.	3200.....	Sodium formate.
1640.....	Dodecylphenol.	2455.....	Metanilic acid.	3210.....	Sodium phenate.
1650.....	Epichlorohydrin.	2460.....	Methacrylic acid.	3220.....	Sorbic acid.
1660.....	Ethanol.	2490.....	Methallyl chloride.	3230.....	Styrene.
1661.....	Ethanolamines.	2500.....	Methanol.	3240.....	Succinic acid.
1670.....	Ethyl acetate.	2510.....	Methyl acetate.	3250.....	Succinitrile.
1680.....	Ethyl acetoacetate.	2520.....	Methyl acetoacetate.	3251.....	Sulfanilic acid.
1690.....	Ethyl acrylate.	2530.....	Methylamine.	3260.....	Sulfolane.
1700.....	Ethylamine.	2540.....	n-methylaniline.	3270.....	Tannic acid.
1710.....	Ethylbenzene.	2545.....	Methyl bromide.	3280.....	Terephthalic acid.
1720.....	Ethyl bromide.	2550.....	Methyl butynol.	3290 & 3291..	Tetrachloroethanes.
1730.....	Ethylcellulose.	2560.....	Methyl chloride.	3300.....	Tetrachlorophthalic anhydride.
1740.....	Ethyl chloride.	2570.....	Methyl cyclohexane.	3310.....	Tetraethyllead.
1750.....	Ethyl chloroacetate.	2580.....	Methyl cyclohexanone.	3320.....	Tetrahydronaphthalene.
1760.....	Ethylcyanoacetate.	2620.....	Methylene chloride.	3330.....	Tetrahydrophthalic anhydride.
1770.....	Ethylene.	2630.....	Methylene dianiline.	3335.....	Tetramethyllead.
1780.....	Ethylene carbonate.	2635.....	Methylene diphenyl diisocyanate.	3340.....	Tetramethylenediamine.
1790.....	Ethylene chlorohydrin.	2640.....	Methyl ethyl ketone.	3341.....	Tetramethylethylenediamine.
1800.....	Ethylenediamine.	2644.....	Methyl formate.	3349.....	Toluene.
1810.....	Ethylene dibromide.	2650.....	Methyl isobutyl carbinol.	3350.....	Toluene-2,4-diamine.
1830.....	Ethylene glycol.	2660.....	Methyl isobutyl ketone.	3354.....	Toluene-2,4-diisocyanate.
1840.....	Ethylene glycol diacetate.	2665.....	Methyl methacrylate.	3355.....	Toluene diisocyanates (mixture).
1870.....	Ethylene glycol dimethyl ether.	2670.....	Methyl pentynol.	3360.....	Toluene sulfonamide.
1890.....	Ethylene glycol monobutyl ether.	2690.....	a-methyl styrene.	3370.....	Toluene sulfonic acids.
1900.....	Ethylene glycol monobutyl ether acetate.	2700.....	Morpholine.	3380.....	Toluene sulfonylchloride.
1910.....	Ethylene glycol monoethyl ether.	2710.....	a-naphthalene sulfonic acid.	3381.....	Toluidines.
1920.....	Ethylene glycol monoethyl ether acetate.	2720.....	B-naphthalene sulfonic acid.	3393.....	Trichlorobenzenes.
1930.....	Ethylene glycol monoethyl ether.	2730.....	a-naphthol.	3395.....	1,1,1-trichloroethane.
1940.....	Ethylene glycol monomethyl ether acetate.	2740.....	B-naphthol.	3400.....	1,1,2-trichloroethane.
1960.....	Ethylene glycol monophenyl ether.	2750.....	Neopentanoic acid.	3410.....	Trichloroethylene.
1970.....	Ethylene glycol monopropyl ether.	2756.....	o-nitroaniline.	3411.....	Trichlorofluoromethane.
1980.....	Ethylene oxide.	2757.....	p-nitroaniline.	3420.....	1,2,3-trichloropropane.
1990.....	Ethyl ether.	2760.....	o-nitroanisole.	3430.....	1,1,2-trichloro-1,2,2-trifluoroethane.
2000.....	2-ethylhexanol.	2762.....	p-nitroanisole.	3450.....	Triethylamine.
2010.....	Ethyl orthoformate.	2770.....	Nitrobenzene.	3460.....	Triethylene glycol.
2020.....	Ethyl oxalate.	2780.....	Nitrobenzoic acid (o, m & p).	3470.....	Triethylene glycoldimethyl ether.
2030.....	Ethyl sodium oxalacetate.	2790.....	Nitroethane.	3480.....	Trisobutylene.
2040.....	Formaldehyde.	2791.....	Nitromethane.	3490.....	Trimethylamine.
2050.....	Formamide.	2792.....	Nitrophenol.	3510.....	Vinyl acetate.
2060.....	Formic acid.	2795.....	Nitropropane.	3520.....	Vinyl chloride.
2070.....	Fumaric acid.	2800.....	Nitrotoluene.	3530.....	Vinylidene chloride.
2073.....	Furfural.	2810.....	Nonene.	3540.....	Vinyl toluene.
2090.....	Glycerol (Synthetic).	2820.....	Nonyl phenol.	3541.....	Xylene (mixed).
2091.....	Glycerol dichlorohydrin.	2830.....	Octyl phenol.	3560.....	o-xylene.
2100.....	Glycerol triether.	2840.....	Paraldehyde.	3570.....	p-xylene.
2110.....	Glycine.	2850.....	Pentaerythritol.	3580.....	Xylenol.
2120.....	Glyoxal.	2851.....	n-pentane.	3590.....	Xylidine, 1,3-butylene glycol, Dinitro-
2145.....	Hexachlorobenzene.	2855.....	i-pentane.		toluene, Methyltertbutyl ether,
2150.....	Hexachloroethane.	2860.....	Perchloroethylene.		Phosgene, Polyethylene, Polypro-
2160.....	Hexadecyl alcohol.	2882.....	Perchloromethylmercaptan.		pylene, Polystyrene, Urea.
2165.....	Hexamethylenediamine.	2890.....	o-phenetidine.		
2170.....	Hexamethylene glycol.	2900.....	p-phenetidine.		
2180.....	Hexamethylenetetramine.	2910.....	Phenol.		
2190.....	Hydrogen cyanide.	2920.....	Phenolsulfonic acids.		
2200.....	Hydroquinone.	2930.....	Phenyl anthranilic acid.		
2210.....	p-hydroxy-benzoic acid.	2940.....	Phenylenediamine.		
2240.....	Isoamylene.	2960.....	Phthalic anhydride.		
2250.....	Isobutanol.	2970.....	Phthalimide.		
2260.....	Isobutyl acetate.	2973.....	b-picoline.		
2261.....	Isobutylene.	2976.....	Piperazine.		
2270.....	Isobutyraldehyde.	3000.....	Polybutenes.		
2280.....	Isobutyric acid.	3010.....	Polyethylene glycol.		
2300.....	Isodecanol.	3025.....	Polypropylene glycol.		
2320.....	Isooctyl alcohol.	3063.....	Propionaldehyde.		
2321.....	Isopentane.	3066.....	Propionic acid.		
2330.....	Isophorone.	3070.....	n-propyl alcohol.		
		3075.....	Propylamine.		
		3080.....	Propyl chloride.		
		3090.....	Propylene.		

¹ The OCPDB Numbers are reference indices assigned to the various chemicals in the Organic Chemical Producers Data Base developed by the USEPA.

Appendix B—VOM Measurement Techniques for Capture Efficiency

Procedure G.1—Captured VOC Emissions

1. Introduction

1.1 Applicability. This procedure is applicable for determining the volatile organic compounds (VOC) content of captured gas streams. It is intended to be used as a segment in the development of liquid/gas or gas/gas protocols for

determining VOC capture efficiency (CE) for surface coating and printing operations. The procedure may not be acceptable in certain site-specific situations, e.g., when: (1) Direct fired heaters or other circumstances affect the quantity of VOC at the control device inlet; and (2) particulate organic aerosols are formed in the process and are present in the captured emissions.

1.2 Principle. The amount of VOC captured (G) is calculated as the sum of the products of the VOC content (C_{G_i}), the flow rate (Q_{G_i}), and the sample time (T_c) from each captured emissions point.

1.3 Estimated measurement uncertainty. The measurement uncertainties are estimated for each captured or fugitive emissions point as follows: $Q_{G_i} = \pm 5.5$ percent and $C_{G_i} = \pm 5.0$ percent. Based on these numbers, the probable uncertainty for G is estimated at about ± 7.4 percent.

1.4 Sampling requirements. A capture efficiency test shall consist of at least three sampling runs. The sampling time for each run should be at least 8 hours, unless otherwise approved.

1.5 Notes. Because this procedure is often applied in highly explosive areas, caution and care should be exercised in choosing appropriate equipment and installing and using the equipment. Mention of trade names or company products does not constitute endorsement. All gas concentrations (percent, ppm) are by volume, unless otherwise noted.

2. Apparatus and Reagents

2.1 Gas VOC concentration. A schematic of the measurement system is shown in Figure 1. The main components are described below:

2.1.1 Sample probe. Stainless steel, or equivalent. The probe shall be heated to prevent VOC condensation.

2.1.2 Calibration valve assembly. Three-way valve assembly at the outlet of sample probe to direct the zero and calibration gases to the analyzer. Other methods, such as quick-connect lines, to route calibration gases to the outlet of the sample probe are acceptable.

2.1.3 Sample line. Stainless steel or Teflon tubing to transport the sample gas to the analyzer. The sample line must be heated to prevent condensation.

2.1.4 Sample pump. A lead-free pump, to pull the sample gas through the system at a flow rate sufficient to minimize the response time of the measurement system. The components of the pump that contact the gas stream shall be constructed of stainless steel or Teflon. The sample pump must be heated to prevent condensation.

2.1.5 Sample flow rate control. A sample flow rate control valve and rotameter, or equivalent, to maintain a constant sampling rate within 10 percent. The flow rate control valve and rotameter must be heated to prevent condensation. A control valve may also be located on the sample pump bypass loop to assist in controlling the sample pressure and flow rate.

2.1.6 Sample gas manifold. Capable of diverting a portion of the sample gas stream to the flame ionization analyzer (FIA), and the remainder to the bypass discharge vent. The manifold components shall be constructed of stainless steel or Teflon. If

captured or fugitive emissions are to be measured at multiple locations, the measurement system shall be designed to use separate sampling probes, lines, and pumps for each measurement location and a common sample gas manifold and FIA. The sample gas manifold and connecting lines to the FIA must be heated to prevent condensation.

2.1.7 Organic concentration analyzer. An FIA with a span value of 1.5 times the expected concentration as propane; however, other span values may be used if it can be demonstrated that they would provide more accurate measurements.

The system shall be capable of meeting or exceeding the following specifications:

2.1.7.1 Zero drift. Less than ± 3.0 percent of the span value.

2.1.7.2 Calibration drift. Less than ± 3.0 percent of the span value.

2.1.7.3 Calibration error. Less than ± 5.0 percent of the calibration gas value.

2.1.7.4 Response time. Less than 30 seconds.

2.1.8 Integrator/data acquisition system. An analog or digital device or computerized data acquisition system used to integrate the FIA response or compute the average response and record measurement data. The minimum data sampling frequency for computing average or integrated values is one measurement value every 5 seconds. The device shall be capable of recording average values at least once per minute.

2.1.9 Calibration and other gases. Gases used for calibration, fuel, and combustion air (if required) are contained in compressed gas cylinders. All calibration gases shall be traceable to NIST standards and shall be certified by the manufacturer to ± 1 percent of the tag value. Additionally, the manufacturer of the cylinder should provide a recommended shelf life for each calibration gas cylinder over which the concentration does not change more than ± 2 percent from the certified value. For calibration gas values not generally available, alternative methods for preparing calibration gas mixtures, such as dilution systems, may be used with prior approval.

2.1.9.1 Fuel. A 40 percent H_2 /60 percent He or 40 percent H_2 /60 percent N_2 gas mixture is recommended to avoid an oxygen synergism effect that reportedly occurs when oxygen concentration varies significantly from a mean value.

2.1.9.2 Carrier gas. High purity air with less than 1 ppm of organic material (as propane or carbon equivalent) or less than 0.1 percent of the span value, whichever is greater.

2.1.9.3 FIA Linearity calibration gases. Low-, mid-, and high-range gas mixture standards with nominal propane concentrations of 20-30, 45-55, and 70-80 percent of the span value in air, respectively. Other calibration values and other span values may be used if it can be shown that more accurate measurements would be achieved.

2.1.10 Particulate filter. An in-stack or an out-of-stack glass fiber filter is recommended if exhaust gas particulate loading is significant. An out-of-stack filter must be heated to prevent any condensation unless it

can be demonstrated that no condensation occurs.

2.2 Captured emissions volumetric flow rate.

2.2.1 Method 2 or 2A apparatus. For determining volumetric flow rate.

2.2.2 Method 3 apparatus and reagents. For determining molecular weight of the gas stream. An estimate of the molecular weight of the gas stream may be used if it can be justified.

2.2.3 Method 4 apparatus and reagents. For determining moisture content, if necessary.

3. Determinations of Volumetric Flow Rate of Captured Emissions

3.1 Locate all points where emissions are captured from the affected facility. Using Method 1, determine the sampling points. Be sure to check each site for cyclonic or swirling flow.

3.2 Measure the velocity at each sampling site at least once every hour during each sampling run using Method 2 or 2A.

4. Determinations of VOC Content of Captured Emissions

4.1 Analysis duration. Measure the VOC responses at each captured emissions point during the entire test run or, if applicable, while the process is operating. If there are multiple captured emission locations, design a sampling system to allow a single FIA to be used to determine the VOC responses at all sampling locations.

4.2 Gas VOC concentration.

4.2.1 Assemble the sample train as shown in Figure 1. Calibrate the FIA according to the procedure in section 5.1.

4.2.2 Conduct a system check according to the procedure in section 5.3.

4.2.3 Install the sample probe so that the probe is centrally located in the stack, pipe, or duct, and is sealed tightly at the stack port connection.

4.2.4 Inject zero gas at the calibration valve assembly. Allow the measurement system response to reach zero. Measure the system response time as the time required for the system to reach the effluent concentration after the calibration valve has been returned to the effluent sampling position.

4.2.5 Conduct a system check before and a system check after each sampling run according to the procedures in sections 5.2 and 5.3. If the drift check following a run indicates unacceptable performance, the run is not valid. The tester may elect to perform system drift checks during the run not to exceed one drift check per hour.

4.2.6 Verify that the sample lines, filter, and pump temperatures are $120 \pm 5^\circ C$.

4.2.7 Begin sampling at the start of the test period and continue to sample during the entire run. Record the starting and ending times and any required process information as appropriate. If multiple captured emission locations are sampled using a single FIA, sample at each location for the same amount of time (e.g., 2 minutes) and continue to switch from one location to another for the entire test run. Be sure that total sampling time at each location is the same at the end of the test run. Collect at least 4 separate measurements from each sample point during

each hour of testing. Disregard the measurements at each sampling location until two times the response time of the measurement system has elapsed. Continue sampling for at least 1 minute and record the concentration measurements.

4.3 Background concentration.

4.3.1 Locate all NDO's of the TTE. A sampling point shall be centrally located outside of the TTE at 4 equivalent diameters from each NDO, if possible. If there are more than 6 NDO's, choose 6 sampling points evenly spaced among the NDO's.

4.3.2 Assemble the sample train as shown in Figure 2. Calibrate the FIA and conduct a system check according to the procedures in sections 5.1 and 5.3.

Note: This sample train shall be a separate sampling train from the one to measure the captured emissions.

4.3.3 Position the probe at the sampling location.

4.3.4 Determine the response time, conduct the system check and sample according to the procedures described in sections 4.2.4 to 4.2.7.

4.4 Alternative procedure. The direct interface sampling and analysis procedure described in section 7.2 of Method 18 may be used to determine the gas VOC concentration. The system must be designed to collect and analyze at least one sample every 10 minutes.

5. Calibration and Quality Assurance

5.1 FIA calibration and linearity check. Make necessary adjustments to the air and fuel supplies for the FIA and ignite the burner. Allow the FIA to warm up for the period recommended by the manufacturer. Inject a calibration gas into the measurement system and adjust the back-pressure regulator to the value required to achieve the flow rates specified by the manufacturer. Inject the zero- and the high-range calibration gases and adjust the analyzer calibration to provide the proper responses. Inject the low- and mid-range gases and record the responses of the measurement system. The calibration and linearity of the system are acceptable if the responses for all four gases are within 5 percent of the respective gas values. If the performance of the system is not acceptable, repair or adjust the system and repeat the linearity check. Conduct a calibration and linearity check after assembling the analysis system and after a major change is made to the system.

5.2 Systems drift checks. Select the calibration gas that most closely approximates the concentration of the captured emissions for conducting the drift

checks. Introduce the zero and calibration gas at the calibration valve assembly and verify that the appropriate gas flow rate and pressure are present at the FIA. Record the measurement system responses to the zero and calibration gases. The performance of the system is acceptable if the difference between the drift check measurement and the value obtained in section 5.1 is less than 3 percent of the span value. Conduct the system drift checks at the end of each run.

5.3 System check. Inject the high range calibration gas at the inlet of the sampling probe and record the response. The performance of the system is acceptable if the measurement system response is within 5 percent of the value obtained in section 5.1, for the high range calibration gas. Conduct a system check before and after each test run.

5.4 Analysis audit. Immediately before each test analyze an audit cylinder as described in section 5.2. The analysis audit must agree with the audit cylinder concentration within 10 percent.

6. Nomenclature

A_i = area of NDO i , ft².

A_N = total area of all NDO's in the enclosure, ft².

C_{Bi} = corrected average VOC concentration of background emissions at point i , ppm propane.

C_B = average background concentration, ppm propane.

C_{Cj} = corrected average VOC concentration of captured emissions at point j , ppm propane.

C_{DH} = average measured concentration for the drift check calibration gas, ppm propane.

C_{DO} = average system drift check concentration for zero concentration gas, ppm propane.

C_H = actual concentration of the drift check calibration gas, ppm propane.

C_i = uncorrected average background VOC concentration measured at point i , ppm propane.

C_j = uncorrected average VOC concentration measured at point j , ppm propane.

G = total VOC content of captured emissions, kg.

$K_1 = 1.830 \times 10^{-6}$ kg/(m³-ppm).

n = number of measurement points.

Q_{Cj} = average effluent volumetric flow rate corrected to standard conditions at captured emissions point j , m³/min.

T_c = total duration of captured emissions sampling run, min.

7. Calculations

7.1 Total VOC captured emissions.

$$G = \frac{\sum_{j=1}^n (C_{Cj} - C_B) Q_{Cj} T_c K_1}{j=1}$$

7.2 VOC concentration of the captured emissions at point j .

$$C_{Cj} = (C_i - C_{DO}) \frac{C_H}{C_{DH} - C_{DO}} \quad \text{Eq. 2}$$

7.3 Background VOC concentration at point i .

$$C_{Bi} = (C_i - C_{DO}) \frac{C_H}{C_{DH} - C_{DO}} \quad \text{Eq. 3}$$

7.4 Average background concentration.

$$C_B = \frac{\sum_{i=1}^n C_{Bi} A_i}{n A_N} \quad \text{Eq. 4}$$

Note: If the concentration at each point is within 20 percent of the average concentration of all points, the terms " A_i " and " A_N " may be deleted from Equation 4.

Procedure G.2—Captured VOC Emissions (Dilution Technique)

1. Introduction

1.1 Applicability. This procedure is applicable for determining the volatile organic compounds (VOC) content of captured gas streams. It is intended to be used as a segment in the development of a gas/gas protocol in which fugitive emissions are measured for determining VOC capture efficiency (CE) for surface coating and printing operations. A dilution system is used to reduce the VOC concentration of the captured emission to about the same concentration as the fugitive emission. The procedure may not be acceptable in certain site-specific situations, e.g., when: (1) Direct fired heaters or other circumstances affect the quantity of VOC at the control device inlet; and (2) particulate organic aerosols are formed in the process and are present in the captured emissions.

1.2 *Principle.* The amount of VOC captured (G) is calculated as the sum of the products of the VOC content (C_{G_i}), the flow rate (Q_{G_i}), and the sampling time (T_c) from each captured emissions point.

1.3 *Estimated measurement uncertainty.* The measurement uncertainties are estimated for each captured or fugitive emissions point as follows: $O_{G_i} = \pm 5.5$ percent and $C_{G_i} = \pm 5$ percent. Based on these numbers, the probable uncertainty for G is estimated at about ± 7.4 percent.

1.4 *Sampling requirements.* A capture efficiency test shall consist of at least three sampling runs. The sampling time for each run should be at least 8 hours, unless otherwise approved.

1.5 *Notes.* Because this procedure is often applied in highly explosive areas, caution and care should be exercised in choosing appropriate equipment and installing and using the equipment. Mention of trade names or company products does not constitute endorsement. All gas concentrations (percent, ppm) are by volume, unless otherwise noted.

2. Apparatus and Reagents

2.1 *Gas VOC concentration.* A schematic of the measurement system is shown in Figure 1. The main components are described below:

2.1.1 *Dilution system.* A Kipp in-stack dilution probe and controller or similar device may be used. The dilution rate may be changed by substituting different critical orifices or adjustments of the aspirator supply pressure. The dilution system shall be heated to prevent VOC condensation.

Note: An out-of-stack dilution device may be used.

2.1.2 *Calibration valve assembly.* Three-way valve assembly at the outlet of sample probe to direct the zero and calibration gases to the analyzer. Other methods, such as quick-connect lines, to route calibration gases to the outlet of the sample probe are acceptable.

2.1.3 *Sample line.* Stainless steel or Teflon tubing to transport the sample gas to the analyzer. The sample line must be heated to prevent condensation.

2.1.4 *Sample pump.* A leak-free pump, to pull the sample gas through the system at a flow rate sufficient to minimize the response time of the measurement system. The components of the pump that contact the gas stream shall be constructed of stainless steel or Teflon. The sample pump must be heated to prevent condensation.

2.1.5 *Sample flow rate control.* A sample flow rate control valve and rotameter, or equivalent, to maintain a constant sampling rate within 10 percent. The flow control valve and rotameter must be heated to prevent condensation. A control valve may also be located on the sample pump bypass loop to assist in controlling the sample pressure and flow rate.

2.1.6 *Sample gas manifold.* Capable of diverting a portion of the sample gas stream to the flame ionization analyzer (FIA), and the remainder to the bypass discharge vent. The manifold components shall be constructed of stainless steel or Teflon. If captured or fugitive emissions are to be measured at multiple locations, the measurement system shall be designed to use

separate sampling probes, lines, and pumps for each measurement location and a common sample gas manifold and FIA. The sample gas manifold and connecting lines to the FIA must be heated to prevent condensation.

2.1.7 *Organic concentration analyzer.* An FIA with a span value of 1.5 times the expected concentration as propane; however, other span values may be used if it can be demonstrated that they would provide more accurate measurements.

The system shall be capable of meeting or exceeding the following specifications:

2.1.7.1 *Zero drift.* Less than ± 3.0 percent of the span value.

2.1.7.2 *Calibration drift.* Less than ± 3.0 percent of the span value.

2.1.7.3 *Calibration error.* Less than ± 5.0 percent of the calibration gas value.

2.1.7.4 *Response time.* Less than 30 seconds.

2.1.7.5 *Integrator/data acquisition system.* An analog or digital device or computerized data acquisition system used to integrate the FIA response or compute the average response and record measurement data. The minimum data sampling frequency for computing average or integrated values is one measurement value every 5 seconds. The device shall be capable of recording average values at least once per minute.

2.1.9 *Calibration and other gases.* Cases used for calibration, fuel, and combustion air (if required) are contained in compressed gas cylinders. All calibration gases shall be traceable to NIST standards and shall be certified by the manufacturer to ± 1 percent of the tag value. Additionally, the manufacturer of the cylinder should provide a recommended shelf life for each calibration gas cylinder over which the concentration does not change more than ± 2 percent from the certified value. For calibration gas values not generally available, alternative methods for preparing calibration gas mixtures, such as dilution system, may be used with prior approval.

2.1.9.1 *Fuel.* A 40 percent H_2 /60 percent He or 40 percent H_2 /60 percent N_2 gas mixture is recommended to avoid an oxygen synergism effect that reportedly occurs when oxygen concentration varies significantly from a mean value.

2.1.9.2 *Carrier gas and dilution air supply.* High purity air with less than 1 ppm of organic material (as propane or carbon equivalent) or less than 0.1 percent of the span value, whichever is greater.

2.1.9.3 *FIA linearity calibration gases.* Low-, mid-, and high-range gas mixture standards with nominal propane concentrations of 20–30, 45–55, and 70–80 percent of the span value in air, respectively. Other calibration values and other span values may be used if it can be shown that more accurate measurements would be achieved.

2.1.9.4 *Dilution check gas.* Gas mixture standard containing propane in air, approximately half the span value after dilution.

2.1.10 *Particulate filter.* An in-stack or an out-of-stack glass fiber filter is recommended if exhaust gas particulate loading is significant. An out-of-stack filter must be

heated to prevent any condensation unless it can be demonstrated that no condensation occurs.

2.2 *Captured emissions volumetric flow rate.*

2.2.1 *Method 2 or 2A apparatus.* For determining volumetric flow rate.

2.2.2 *Method 3 apparatus and reagents.* For determining molecular weight of the gas stream. An estimate of the molecular weight of the gas stream may be used if it can be justified.

2.2.3 *Method 4 apparatus and reagents.* For determining moisture content, if necessary.

3. Determination of Volumetric Flow Rate of Captured Emissions

3.1 Locate all points where emissions are captured from the affected facility. Using Method 1, determine the sampling points. Be sure to check each site for cyclonic or swirling flow.

3.2 Measure the velocity at each sampling site at least once every hour during each sampling run using Method 2 or 2A.

4. Determination of VOC Content of Captured Emissions

4.1 *Analysis duration.* Measure the VOC responses at each captured emissions point during the entire test run or, if applicable, while the process is operating. If there are multiple captured emissions locations, design a sampling system to allow a single FIA to be used to determine the VOC responses at all sampling locations.

4.2 *Gas VOC concentration.*

4.2.1 Assemble the sample train as shown in Figure 1. Calibrate the FIA according to the procedure in section 5.1.

4.2.2 Set the dilution ratio and determine the dilution factor according to the procedure in section 5.3.

4.2.3 Conduct a system check according to the procedure in section 5.4.

4.2.4 Install the sample probe so that the probe is centrally located in the stack, pipe, or duct, and is sealed tightly at the stack port connection.

4.2.5 Inject zero gas at the calibration valve assembly. Measure the system response time as the time required for the system to reach the effluent concentration after the calibration valve has been returned to the effluent sampling position.

4.2.6 Conduct a system check before and a system drift check after each sampling run according to the procedures in sections 5.2 and 5.4. If the drift check following a run indicates unacceptable performance, the run is not valid. The tester may elect to perform system drift checks during the run not to exceed one drift check per hour.

4.2.7 Verify that the sample lines, filter, and pump temperatures are $120 \pm 5^\circ C$.

4.2.8 Begin sampling at the start of the test period and continue to sample during the entire run. Record the starting and ending times and any required process information as appropriate. If multiple captured emission locations are sampled using a single FIA, sample at each location for the same amount of time (e.g., 2 minutes) and continue to switch from one location to another for the entire test run. Be sure that total sampling

time at each location is the same at the end of the test run. Collect at least 4 separate measurements from each sample point during each hour of testing. Disregard the measurements at each sampling location until two times the response time of the measurement system has elapsed. Continue sampling for at least 1 minute and record the concentration measurements.

4.3 Background concentration.

4.3.1 Locate all NDO's of the TTE. A sampling point shall be centrally located outside of the TTE at 4 equivalent diameters from each NDO, if possible. If there are more than 6 NDO's, choose 6 sampling points evenly spaced among the NDO's.

4.3.2 Assemble the sample train as shown in Figure 2. Calibrate the FIA and conduct a system check according to the procedures in sections 5.1 and 5.4.

4.3.3 Position the probe at the sampling location.

4.3.4 Determine the response time, conduct the system check and sample according to the procedures described in sections 4.2.4 to 4.2.8.

4.4 Alternative procedure. The direct interface sampling and analysis procedure described in section 7.2 of Method 18 may be used to determine the gas VOC concentration. The system must be designed to collect and analyze at least one sample every 10 minutes.

5. Calibration and Quality Assurance

5.1 FIA Calibration and linearity check. Make necessary adjustments to the air and fuel supplies for the FIA and ignite the burner. Allow the FIA to warm up for the period recommended by the manufacturer. Inject a calibration gas into the measurement system after the dilution system and adjust the back-pressure regulator to the value required to achieve the flow rates specified by the manufacturer. Inject the zero- and the high-range calibration gases and adjust the analyzer calibration to provide the proper responses. Inject the low- and mid-range gases and record the responses of the measurement system. The calibration and linearity of the system are acceptable if the responses for all four gases are within 5 percent of the respective gas values. If the performance of the system is not acceptable, repair or adjust the system and repeat the linearity check. Conduct a calibration and linearity check after assembling the analysis system and after a major change is made to the system.

5.2 Systems drift checks. Select the calibration gas that most closely approximates the concentration of the diluted captured emissions for conducting the drift checks. Introduce the zero and calibration gas at the calibration valve assembly and verify that the appropriate gas flow rate and pressure are present at the FIA. Record the measurement system responses to the zero and calibration gases. The performance of the system is acceptable if the difference between the drift check measurement and the value obtained in section 5.1 is less than 3 percent of the span value. Conduct the system drift check at the end of each run.

5.3 Determination of dilution factor.

Inject the dilution check gas into the measurement system before the dilution system and record the response. Calculate the dilution factor using Equation 3.

5.4 System check. Inject the high range calibration gas at the inlet to the sampling probe while the dilution air is turned off. Record the response. The performance of the system is acceptable if the measurement system response is within 5 percent of the value obtained in section 5.1 for the high range calibration gas. Conduct a system check before and after each test run.

5.5 Analysis audit. Immediately before each test analyze an audit cylinder as described in section 5.2. The analysis audit must agree with the audit cylinder concentration within 10 percent.

6. Nomenclature

A_i = area of NDO i, ft².

A_N = total area of all NDO's in the enclosure, ft².

C_A = actual concentration of the dilution check gas, ppm propane.

C_{BI} = corrected average VOC concentration of background emissions at point i, ppm propane.

C_B = average background concentration, ppm propane.

C_{DH} = average measured concentration for the drift check calibration gas, ppm propane.

C_{DO} = average system drift check concentration for zero concentration gas, ppm propane.

C_H = actual concentration of the drift check calibration, gas, ppm propane.

C_i = uncorrected average background VOC concentration measured at point i, ppm propane.

C_j = uncorrected average VOC concentration measured at point j, ppm propane.

C_M = measured concentration of the dilution check gas, ppm propane.

D_F = dilution factor.

G = total VOC content of captured emissions, kg.

$K_1 = 1.830 \times 10^{-3}$ kg/(m³·ppm).

n = number of measurement points.

Q_{Gj} = average effluent volumetric flow rate corrected to standard conditions at captured emissions point j, m³/min.

T_C = total duration of capture efficiency sampling run, min.

7. Calculations

7.1 Total VOC captured emissions.

$$G = \sum_{j=1}^n C_{Gj} Q_{Gj} T_C K_1 \quad \text{Eq. 1}$$

7.2 VOC concentration of the captured emissions to point j.

$$C_{Gj} = DF(C_i - C_{DO}) \frac{C_H}{C_{DH} - C_{DO}} \quad \text{Eq. 2}$$

7.3 Dilution factor.

$$DF = \frac{C_A}{C_M} \quad \text{Eq. 3}$$

7.4 Background VOC concentration at point i.

$$C_{BI} = (C_i - C_{DO}) \frac{C_H}{C_{DH} - C_{DO}} \quad \text{Eq. 4}$$

7.5 Average background concentration.

$$C_B = \frac{\sum_{i=1}^n C_{BI} A_i}{n A_N} \quad \text{Eq. 5}$$

Note: If the concentration at each point is within 20 percent of the average concentration of all points, the terms " A_i " and " A_N " may be deleted from Equation 4.

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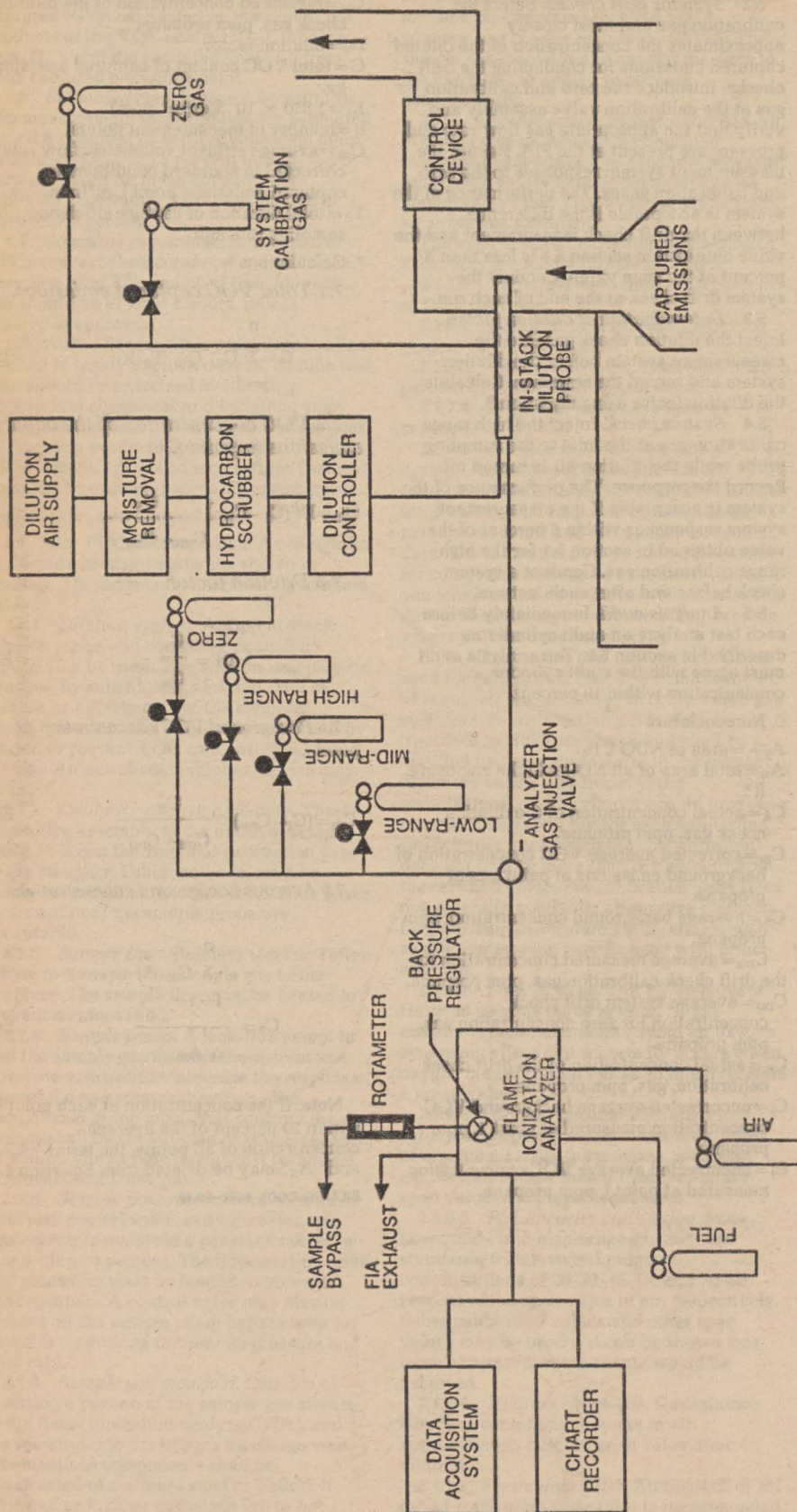


Figure 1. Captured emissions measurement system.

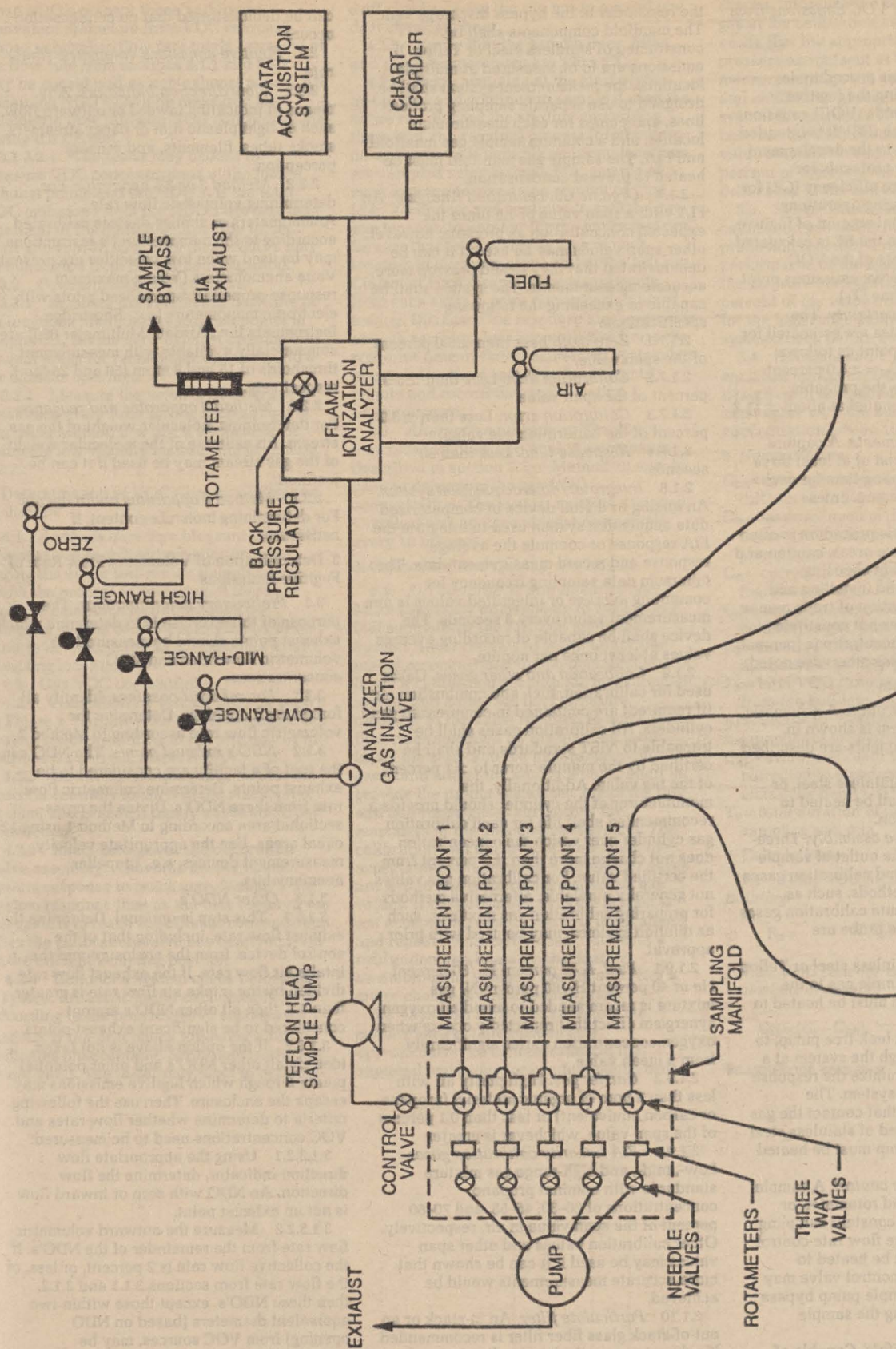


Figure 2. Background measurement system.

VOC 2/90

Procedure F.2—Fugitive VOC Emissions from Building Enclosures

1. Introduction

1.1 Applicability. This procedure is applicable for determining the fugitive volatile organic compounds (VOC) emissions from a building enclosure (BE). It is intended to be used as a segment in the development of liquid/gas or gas/gas protocols for determining VOC capture efficiency (CE) for surface coating and printing operations.

1.2 Principle. The total amount of fugitive VOC emissions (F_B) from the BE is calculated as the sum of the products of the VOC content (C_F) of each fugitive emissions point, its flow rate (Q_F), and time (T_F).

1.3 Measurement uncertainty. The measurement uncertainties are estimated for each fugitive emissions point as follows: $Q_F = \pm 5.0$ percent and $C_F = \pm 5.0$ percent. Based on these numbers, the probable uncertainty for F_B is estimated at about ± 11.2 percent.

1.4 Sampling requirements. A capture efficiency test shall consist of at least three sampling runs. The sampling time for each run should be at least 8 hours, unless otherwise approved.

1.5 Notes. Because this procedure is often applied in highly explosive areas, caution and care should be exercised in choosing appropriate equipment and installing and using the equipment. Mention of trade names or company products does not constitute endorsement. All gas concentrations (percent, ppm) are by volume, unless otherwise noted.

2. Apparatus and Reagents

2.1 Gas VOC concentration. A schematic of the measurement system is shown in Figure 1. The main components are described below:

2.1.1 Sample probe. Stainless steel, or equivalent. The probe shall be heated to prevent VOC condensation.

2.1.2 Calibration valve assembly. Three-way valve assembly at the outlet of sample probe to direct the zero and calibration gases to the analyzer. Other methods, such as quick-connect lines, to route calibration gases to the outlet of the sample probe are acceptable.

2.1.3 Sample line. Stainless steel or Teflon tubing to transport the sample gas to the analyzer. The sample line must be heated to prevent condensation.

2.1.4 Sample pump. A leak-free pump, to pull the sample gas through the system at a flow rate sufficient to minimize the response time of the measurement system. The components of the pump that contact the gas stream shall be constructed of stainless steel or Teflon. The sample pump must be heated to prevent condensation.

2.1.5 Sample flow rate control. A sample flow rate control valve and rotameter, or equivalent, to maintain a constant sampling rate within 10 percent. The flow rate control valve and rotameter must be heated to prevent condensation. A control valve may also be located on the sample pump bypass loop to assist in controlling the sample pressure and flow rate.

2.1.6 Sample gas manifold. Capable of diverting a portion of the sample gas stream to the flame ionization analyzer (FIA), and

the remainder to the bypass discharge vent. The manifold components shall be constructed of stainless steel or Teflon. If emissions are to be measured at multiple locations, the measurement system shall be designed to use separate sampling probes, lines, and pumps for each measurement location and a common sample gas manifold and FIA. The sample gas manifold must be heated to prevent condensation.

2.1.7 Organic Concentration Analyzer. An FIA with a span value of 1.5 times the expected concentration as propane; however, other span values may be used if it can be demonstrated that they would provide more accurate measurements. The system shall be capable of exceeding the following specifications:

2.1.7.1 Zero drift. Less than ± 3.0 percent of the span value.

2.1.7.2 Calibration drift. Less than ± 3.0 percent of the span value.

2.1.7.3 Calibration error. Less than ± 5.0 percent of the calibration gas value.

2.1.7.4 Response time. Less than 30 seconds.

2.1.8 Integrator/data acquisition system. An analog or digital device or computerized data acquisition system used to integrate the FIA response or compute the average response and record measurement data. The minimum data sampling frequency for computing average or integrated values is one measurement value every 5 seconds. The device shall be capable of recording average values at least once per minute.

2.1.9 Calibration and other gases. Gases used for calibration, fuel, and combustion air (if required) are contained in compressed gas cylinders. All calibration gases shall be traceable to NIST standards and shall be certified by the manufacturer to ± 1 percent of the tag value. Additionally, the manufacturer of the cylinder should provide a recommended shelf life for each calibration gas cylinder over which the concentration does not change more than ± 2 percent from the certified value. For calibration gas values not generally available, alternative methods for preparing calibration gas mixtures, such as dilution systems, may be used with prior approval.

2.1.9.1 Fuel. A 40 percent H_2 /60 percent He or 40 percent H_2 /60 percent N_2 gas mixture is recommended to avoid an oxygen synergism effect that reportedly occurs when oxygen concentration varies significantly from a mean value.

2.1.9.2 Carrier gas. High purity air with less than 1 ppm of organic material (propane or carbon equivalent) or less than 0.1 percent of the span value, whichever is greater.

2.1.9.3 FIA linearity calibration gases. Low-, mid-, and high-range gas mixture standards with nominal propane concentrations of 20–30, 45–55, and 70–80 percent of the span value in air, respectively. Other calibration values and other span values may be used if it can be shown that more accurate measurements would be achieved.

2.1.10 Particulate filter. An in-stack or an out-of-stack glass fiber filter is recommended if exhaust gas particulate loading is significant. An out-of-stack filter must be heated to prevent any condensation unless it

can be demonstrated that no condensation occurs.

2.2 Fugitive emissions volumetric flow rate.

2.2.1 Flow direction indicators. Any means of indicating inward or outward flow, such as light plastic film or paper streamers, smoke tubes, filaments, and sensory perception.

2.2.2 Method 2 or 2A apparatus. For determining volumetric flow rate. Anemometers or similar devices calibrated according to the manufacturer's instructions may be used when low velocities are present. Vane anemometers (Young-maximum response propeller), specialized pitots with electronic manometers (e.g., Shortridge Instruments Inc., Airdata Multimeter 860) are commercially available with measurement thresholds of 15 and 8 mpm (50 and 25 fpm), respectively.

2.2.3 Method 3 apparatus and reagents. For determining molecular weight of the gas stream. An estimate of the molecular weight of the gas stream may be used if it can be justified.

2.2.4 Method 4 apparatus and reagents. For determining moisture content, if necessary.

3. Determination of Volumetric Flow Rate of Fugitive Emissions

3.1 Preliminary determinations. The purpose of this exercise is to determine which exhaust points should be measured for volumetric flow rates and VOC concentrations.

3.1.1 Forced draft openings. Identify all forced draft openings. Determine the volumetric flow rate according to Method 2.

3.1.2 NDO's exhaust points. The NDO's in the roof of a facility are considered to be exhaust points. Determine volumetric flow rate from these NDO's. Divide the cross-sectional area according to Method 1 using 12 equal areas. Use the appropriate velocity measurement devices, e.g., propeller anemometers.

3.1.3 Other NDO's.

3.1.3.1 This step is optional. Determine the exhaust flow rate, including that of the control device, from the enclosure and the intake air flow rate. If the exhaust flow rate divided by the intake air flow rate is greater than 1.1, then all other NDO's are not considered to be significant exhaust points.

3.1.3.2 If the option above is not taken, identify all other NDO's and other potential points through which fugitive emissions may escape the enclosure. Then use the following criteria to determine whether flow rates and VOC concentrations need to be measured:

3.1.3.2.1 Using the appropriate flow direction indicator, determine the flow direction. An NDO with zero or inward flow is not an exhaust point.

3.1.3.2.2 Measure the outward volumetric flow rate from the remainder of the NDO's. If the collective flow rate is 2 percent, or less, of the flow rate from sections 3.1.1 and 3.1.2, then these NDO's, except those within two equivalent diameters (based on NDO opening) from VOC sources, may be considered to be non-exhaust points.

3.1.3.2.3 If the percentage calculated in section 3.1.3.2.2 is greater than 2 percent,

those NDO's (except those within two equivalent diameters from VOC sources) whose volumetric flow rate totals 2 percent of the flow rate from sections 3.1.1 and 3.1.2 may be considered as non-exhaust points. All remaining NDO's shall be measured for volumetric flow rate and VOC concentrations during the CE test.

3.1.3.2.4 The tester may choose to measure VOC concentrations at the forced exhaust points and the NDO's. If the total VOC emissions from the NDO's are less than 2 percent of the emissions from the forced draft and roof NDO's, then these NDO's may be eliminated from further consideration.

3.2 Determination of flow rates.

3.2.1 Measure the volumetric flow rate at all locations identified as exhaust points in section 3.1. Divide each exhaust opening into 9 equal areas for rectangular openings and 8 for circular openings.

3.2.2 Measure the velocity at each site at least once every hour during each sampling run using Method 2 or 2A, if applicable, or using the low velocity instruments in section 2.2.2.

4. Determination of VOC Content of Fugitive Emissions

4.1 *Analysis duration.* Measure the VOC responses at each fugitive emission point during the entire test run or, if applicable, while the process is operating. If there are multiple emissions locations, design a sampling system to allow a single FIA to be used to determine the VOC responses at all sampling locations.

4.2 Gas VOC concentration.

4.2.1 Assemble the sample train as shown in Figure 1. Calibrate the FIA and conduct a system check according to the procedures in sections 5.1 and 5.3, respectively.

4.2.2 Install the sample probe so that the probe is centrally located in the stack, pipe, or duct, and is sealed tightly at the stack port connection.

4.2.3 Inject zero gas at the calibration valve assembly. Allow the measurement system response to reach zero. Measure the system response time as the time required for the system to reach the effluent concentration after the calibration valve has been returned to the effluent sampling position.

4.2.4 Conduct a system check before and a system drift check after each sampling run according to the procedures in sections 5.2 and 5.3. If the drift check following a run indicates unacceptable performance, the run is not valid. The tester may elect to perform

drift checks during the run not to exceed one drift check per hour.

4.2.5 Verify that the sample lines, filter, and pump temperatures are $120 \pm 5^\circ\text{C}$.

4.2.6 Begin sampling at the start of the test period and continue to sample during the entire run. Record the starting and ending times and any required process information as appropriate. If multiple emission locations are sampled using a single FIA, sample at each location for the same amount of time (e.g., 2 minutes) and continue to switch from one location to another for the entire test run. Be sure that total sampling time at each location is the same at the end of the test run. Collect at least 4 separate measurements from each sample point during each hour of testing. Disregard the response measurements at each sampling location until two times the response time of the measurement system has elapsed. Continue sampling for at least 1 minute and record the concentration measurements.

4.3 *Alternative procedure.* The direct interface sampling and analysis procedure described in section 7.2 of Method 18 may be used to determine the gas VOC concentration. The system must be designed to collect and analyze at least one sample every 10 minutes.

5. Calibration and Quality Assurance

5.1 FIA calibration and linearity check.

Make necessary adjustments to the air and fuel supplies for the FIA and ignite the burner. Allow the FIA to warm up for the period recommended by the manufacturer. Inject a calibration gas into the measurement system and adjust the back-pressure regulator to the value required to achieve the flow rates specified by the manufacturer. Inject the zero- and the high-range calibration gases and adjust the analyzer calibration to provide the proper responses. Inject the low- and mid-range gases and record the responses of the measurement system. The calibration and linearity of the system are acceptable if the responses for all four gases are within 5 percent of the respective gas values. If the performance of the system is not acceptable, repair or adjust the system and repeat the linearity check. Conduct a calibration and linearity check after assembling the analysis system and after a major change is made to the system.

5.2 *Systems drift checks.* Select the calibration gas that most closely approximates the concentration of the captured emissions for conducting the drift

checks. Introduce the zero and calibration gas at the calibration valve assembly and verify that the appropriate gas flow rate and pressure are present at the FIA. Record the measurement system responses to the zero and calibration gases. The performance of the system is acceptable if the difference between the drift check measurement and the value obtained in section 5.1 is less than 3 percent of the span value. Conduct a system drift check at the end of each run.

5.3 *System check.* Inject the high range calibration gas at the inlet of the sampling probe and record the response. The performance of the system is acceptable if the measurement system response is within 5 percent of the value obtained in section 5.1 for the high range calibration gas. Conduct a system check before each test run.

5.4 *Analysis audit.* Immediately before each test analyze an audit cylinder as described in section 5.2. The analysis audit must agree with the audit cylinder concentration within 10 percent.

6. Nomenclature

C_{DH} = average measured concentration for the drift check calibration gas, ppm propane.
 C_{DO} = average system drift check concentration for zero concentration gas, ppm propane.
 C_{Fj} = corrected average VOC concentration of fugitive emissions at point j, ppm propane.
 C_H = actual concentration of the drift check calibration gas, ppm propane.
 C_j = uncorrected average VOC concentration measured at point j, ppm propane.
 F_B = total VOC content of fugitive emissions from the building, kg.
 K_i = 1.830×10^{-6} kg/(m³-ppm).
 n = number of measurement points.
 Q_{Fj} = average effluent volumetric flow rate corrected to standard conditions at fugitive emissions point j, m³/min.
 T_F = total duration of capture efficiency sampling run, min.

7. Calculations

7.1 *Total VOC fugitive emissions from the building.*

$$F_B = \sum_{j=1}^n C_{Fj} Q_{Fj} T_F K_i \quad \text{Eq. 1}$$

7.2 *VOC concentration of the fugitive emissions at point j.*

$$C_{Fj} = (C_j - C_{DO}) \frac{C_H}{C_{DH} - C_{DO}} \quad \text{Eq. 2}$$

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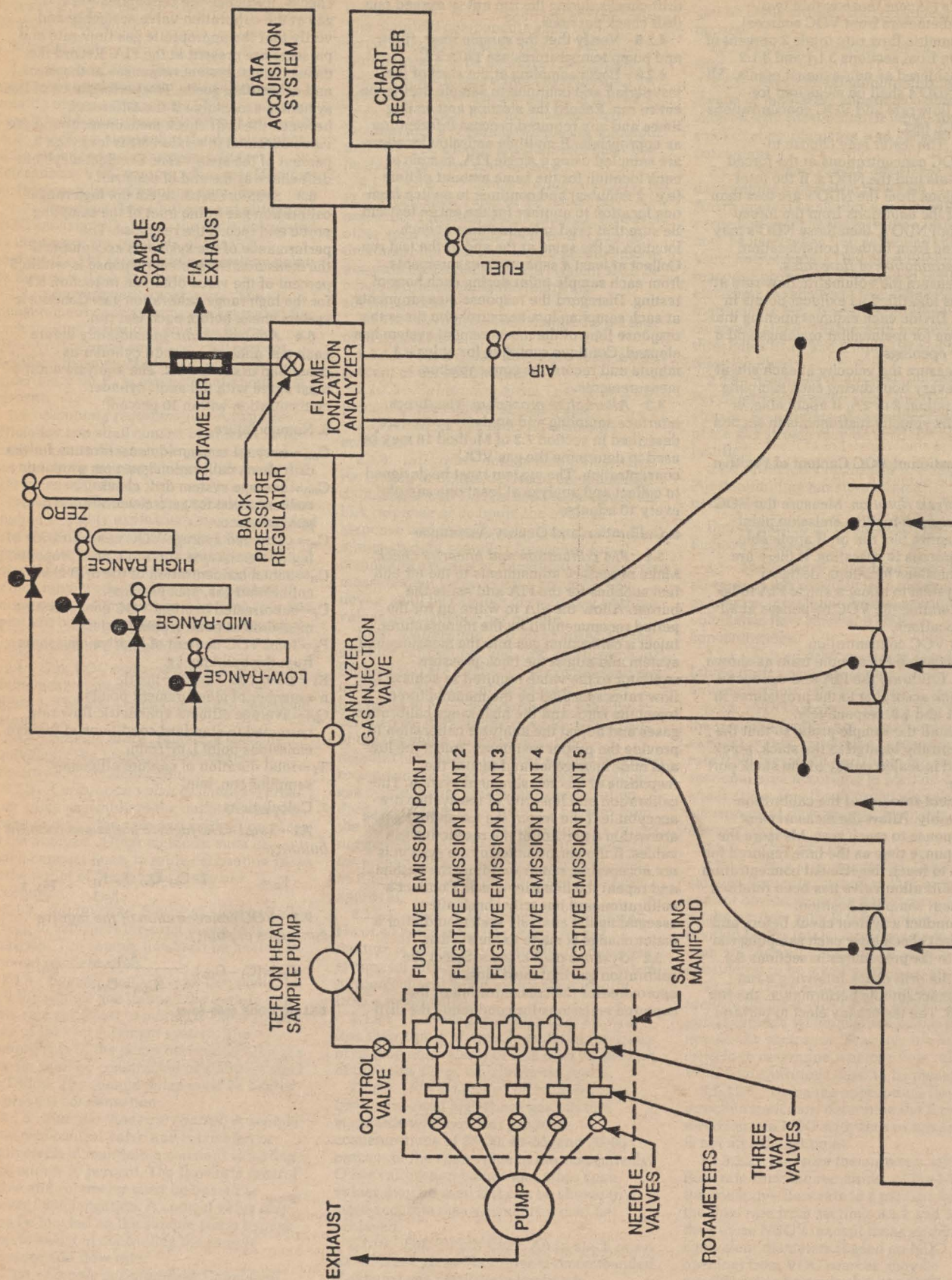


Figure 1. Fugitive emissions measurement system.

Procedure F.1—Fugitive VOC Emissions From Temporary Enclosures

1. Introduction

1.1 *Applicability.* This procedure is applicable for determining the fugitive volatile organic compounds (VOC) emissions from a temporary total enclosure (TTE). It is intended to be used as a segment in the development of liquid/gas or gas/gas protocols for determining VOC capture efficiency (CE) for surface coating and printing operations.

1.2 *Principle.* The amount of fugitive VOC emissions (F) from the TTE is calculated as the sum of the products of the VOC content (C_F), the flow rate (Q_F), and the sampling time (T_F) from each fugitive emissions point.

1.3 *Estimated measurement uncertainty.* The measurement uncertainties are estimated for each fugitive emission point as follows: $Q = \pm 5.5$ percent and $C_F = \pm 5.0$ percent. Based on these numbers, the probable uncertainty for F is estimated at about ± 7.4 percent.

1.4 *Sampling requirements.* A capture efficiency test shall consist of at least three sampling runs. The sampling time for each run should be at least 8 hours, unless otherwise approved.

1.5 *Notes.* Because this procedure is often applied in highly explosive areas, caution and care should be exercised in choosing appropriate equipment and installing and using the equipment. Mention of trade names or company products does not constitute endorsement. All gas concentrations (percent, ppm) are by volume, unless otherwise noted.

2. Apparatus and Reagents

2.1 *Gas VOC concentration.* A schematic of the measurement system is shown in Figure 1. The main components are described below:

2.1.1 *Sample probe.* Stainless steel, or equivalent. The probe shall be heated to prevent VOC condensation.

2.1.2 *Calibration valve assembly.* Three-way valve assembly at the outlet of sample probe to direct the zero and calibration gases to the analyzer. Other methods, such as quick-connect lines, to route calibration gases to the outlet of the sample probe are acceptable.

2.1.3 *Sample line.* Stainless steel or Teflon tubing to transport the sample gas to the analyzer. The sample line must be heated to prevent condensation.

2.1.4 *Sample pump.* A leak-free pump, to pull the sample gas through the system at a flow rate sufficient to minimize the response time of the measurement system. The components of the pump that contact the gas stream shall be constructed of stainless steel or Teflon. The sample pump must be heated to prevent condensation.

2.1.5 *Sample flow rate control.* A sample flow rate control valve and rotameter, or equivalent, to maintain a constant sampling rate within 10 percent. The flow control valve and rotameter must be heated to prevent condensation. A control valve may also be located on the sample pump bypass loop to assist in controlling the sample pressure and flow rate.

2.1.6 *Sample gas manifold.* Capable of diverting a portion of the sample gas stream

to the flame ionization analyzer (FIA), and the remainder to the bypass discharge vent. The manifold components shall be constructed of stainless steel or Teflon. If emissions are to be measured at multiple locations, the measurement system shall be designed to use separate sampling probes, lines, and pumps for each measurement location and a common sample gas manifold and FIA. The sample gas manifold and connecting lines to the FIA must be heated to prevent condensation.

2.1.7 *Organic concentration analyzer.* An FIA with a span value of 1.5 times the expected concentration as propane; however, other span values may be used if it can be demonstrated that they would provide more accurate measurements. The system shall be capable of meeting or exceeding the following specifications:

2.1.7.1 *Zero drift.* Less than ± 3.0 percent of the span value.

2.1.7.2 *Calibration drift.* Less than ± 3.0 percent of the span value.

2.1.7.3 *Calibration error.* Less than ± 5.0 percent of the calibration gas value.

2.1.7.4 *Response time.* Less than 30 seconds.

2.1.8 *Integrator/data acquisition system.* An analog or digital device or computerized data acquisition system used to integrate the FIA response or compute the average response and record measurement data. The minimum data sampling frequency for computing average or integrated values is one measurement value every 5 seconds. The device shall be capable of recording average values at least once per minute.

2.1.9 *Calibration and other gases.* Gases used for calibration, fuel, and combustion air (if required) are contained in compressed gas cylinders. All calibration gases shall be traceable to NIST standards and shall be certified by the manufacturer to ± 1 percent of the tag value. Additionally, the manufacturer of the cylinder should provide a recommended shelf life for each calibration gas cylinder over which the concentration does not change more than ± 2 percent from the certified value. For calibration gas values not generally available, alternative methods for preparing calibration gas mixtures, such as dilution systems, may be used with prior approval.

2.1.9.1 *Fuel.* A 40 percent H_2 /60 percent He or 40 percent H_2 /60 percent N_2 gas mixture is recommended to avoid an oxygen synergism effect that reportedly occurs when oxygen concentration varies significantly from a mean value.

2.1.9.2 *Carrier gas.* High purity air with less than 1 ppm of organic material (as propane or carbon equivalent) or less than 0.1 percent of the span value, whichever is greater.

2.1.9.3 *FIA linearity calibration gases.* Low-, mid-, and high-range gas mixture standards with nominal propane concentrations of 20–30, 45–55, and 70–80 percent of the span value in air, respectively. Other calibration values and other span values may be used if it can be shown that more accurate measurements would be achieved.

2.1.10 *Particulate filter.* An in-stack or an out-of-stack glass fiber filter is recommended

if exhaust gas particulate loading is significant. An out-of-stack filter must be heated to prevent any condensation unless it can be demonstrated that no condensation occurs.

2.2 Fugitive emissions volumetric flow rate.

2.2.1 *Method 2 or 2A apparatus.* For determining volumetric flow rate.

2.2.2 *Method 3 apparatus and reagents.* For determining molecular weight of the gas stream. An estimate of the molecular weight of the gas stream may be used if it can be justified.

2.2.3 *Method 4 apparatus and reagents.* For determining moisture content, if necessary.

2.3 *Temporary total enclosure.* The criteria for designing a TTE are discussed in Procedure T.

3. Determination of Volumetric Flow Rate of Fugitive Emissions

3.1 Locate all points where emissions are exhausted from the TTE. Using Method 1, determine the sampling points. Be sure to check each site for cyclonic or swirling flow.

3.2 Measure the velocity at each sampling site at least once every hour during each sampling run using Method 2 or 2A.

4. Determination of VOC Content of Fugitive Emissions

4.1 *Analysis duration.* Measure the VOC responses at each fugitive emission point during the entire test run or, if applicable, while the process is operating. If there are multiple emission locations, design a sampling system to allow a single FIA to be used to determine the VOC responses at all sampling locations.

4.2 Gas VOC concentration.

4.2.1 Assemble the sample train as shown in Figure 1. Calibrate the FIA and conduct a system check according to the procedures in sections 5.1 and 5.3, respectively.

4.2.2 Install the sample probe so that the probe is centrally located in the stack, pipe, or duct, and is sealed tightly at the stack port connection.

4.2.3 Inject zero gas at the calibration valve assembly. Allow the measurement system response to reach zero. Measure the system response time as the time required for the system to reach the effluent concentration after the calibration valve has been returned to the effluent sampling position.

4.2.4 Conduct a system check before and a system drift check after each sampling run according to the procedures in sections 5.2 and 5.3. If the drift check following a run indicates unacceptable performance, the run is not valid. The tester may elect to perform system drift checks during the run not to exceed one drift check per hour.

4.2.5 Verify that the sample lines, filter, and pump temperatures are $120 \pm 5^\circ C$.

4.2.6 Begin sampling at the start of the test period and continue to sample during the entire run. Record the starting and ending times and any required process information as appropriate. If multiple emission locations are sampled using a single FIA, sample at each location for the same amount of time (e.g., 2 minutes) and continue to switch from one location to another for the entire test run.

Be sure that total sampling time at each location is the same at the end of the test run. Collect at least 4 separate measurements from each sample point during each hour of testing. Disregard the response measurements at each sampling location until two times the response time of the measurement system has elapsed. Continue sampling for at least 1 minute and record the concentration measurements.

4.3 Background concentration.

4.3.1 Determination of VOC background concentration.

4.3.1.1 Locate all NDO's of the TTE. A sampling point shall be centrally located outside of the TTE at 4 equivalent diameters from each NDO, if possible. If there are more than 6 NDO's, choose 6 sampling points evenly spaced among the NDO's.

4.3.1.2 Assemble the sample train as shown in Figure 2. Calibrate the FIA and conduct a system check according to the procedures in sections 5.1 and 5.3.

4.3.1.3 Position the probe at the sampling location.

4.3.1.4 Determine the response time, conduct the system check and sample according to the procedures described in sections 4.2.3 to 4.2.6.

4.4 Alternative procedure. The direct interface sampling and analysis procedure described in section 7.2 of Method 18 may be used to determine the gas VOC concentration. The system must be designed to collect and analyze at least one sample every 10 minutes.

5. Calibration and Quality Assurance

5.1 FIA calibration and linearity check. Make necessary adjustments to the air and fuel supplies for the FIA and ignite the burner. Allow the FIA to warm up for the period recommended by the manufacturer. Inject a calibration gas into the measurement system and adjust the back-pressure regulator to the value required to achieve the flow rates specified by the manufacturer. Inject the zero- and the high-range calibration gases and adjust the analyzer calibration to provide the proper responses. Inject the low- and mid-range gases and record the

responses of the measurement system. The calibration and linearity of the system are acceptable if the responses for all four gases are within 5 percent of the respective gas values. If the performance of the system is not acceptable, repair or adjust the system and repeat the linearity check. Conduct a calibration and linearity check after assembling the analysis system and after a major change is made to the system.

5.2 Systems drift checks. Select the calibration gas concentration that most closely approximates that of the fugitive gas emissions to conduct the drift checks. Introduce the zero and calibration gas at the calibration valve assembly and verify that the appropriate gas flow rate and pressure are present at the FIA. Record the measurement system responses to the zero and calibration gases. The performance of the system is acceptable if the difference between the drift check measurement and the value obtained in section 5.1 is less than 3 percent of the span value. Conduct a system drift check at the end of each run.

5.3 System check. Inject the high range calibration gas at the inlet of the sampling probe and record the response. The performance of the system is acceptable if the measurement system response is within 5 percent of the value obtained in section 5.1 for the high range calibration gas. Conduct a system check before each test run.

5.4 Analysis audit. Immediately before each test analyze an audit cylinder as described in section 5.2. The analysis audit must agree with the audit cylinder concentration within 10 percent.

6. Nomenclature

A_i = area of NDO i , ft².

A_N = total area of all NDO's in the enclosure, ft².

C_{bi} = corrected average VOC concentration of background emissions at point i , ppm propane.

C_B = average background concentration, ppm propane.

C_{DH} = average measured concentration for the drift check calibration gas, ppm propane.

C_{DO} = average system drift check concentration for zero concentration gas, ppm propane.

C_{Fj} = corrected average VOC concentration of fugitive emissions at point j , ppm propane.

C_H = actual concentration of the drift check calibration gas, ppm propane.

C_i = uncorrected average background VOC concentration at point i , ppm propane.

C_j = uncorrected average VOC concentration measured at point j , ppm propane.

F = total VOC content of fugitive emissions, kg.

$K_1 = 1.830 \times 10^{-6}$ kg/(m³-ppm).

n = number of measurement points.

Q_{Fj} = average effluent volumetric flow rate corrected to standard conditions at fugitive emissions point j , m³/min.

T_F = total duration of fugitive emissions sampling run, min.

7. Calculations

7.1 Total VOC fugitive emissions.

$$F = \sum_{j=1}^n (C_{Fj} - C_B) Q_{Fj} T_F K_1 \quad \text{Eq. 1}$$

7.2 VOC concentration of the fugitive emissions at point j .

$$C_{Fj} = (C_j - C_{DO}) \frac{C_H}{C_{DH} - C_{DO}} \quad \text{Eq. 2}$$

7.3 Background VOC concentration at point i .

$$C_{Bi} = (C_i - C_{DO}) \frac{C_H}{C_{DH} - C_{DO}} \quad \text{Eq. 3}$$

7.4 Average background concentration.

$$C_B = \frac{\sum_{i=1}^n C_{Bi} A_i}{n A_N} \quad \text{Eq. 4}$$

Note: If the concentration at each point is within 20 percent of the average concentration of all points, the terms " A_i " and " A_N " may be deleted from Equation 4.

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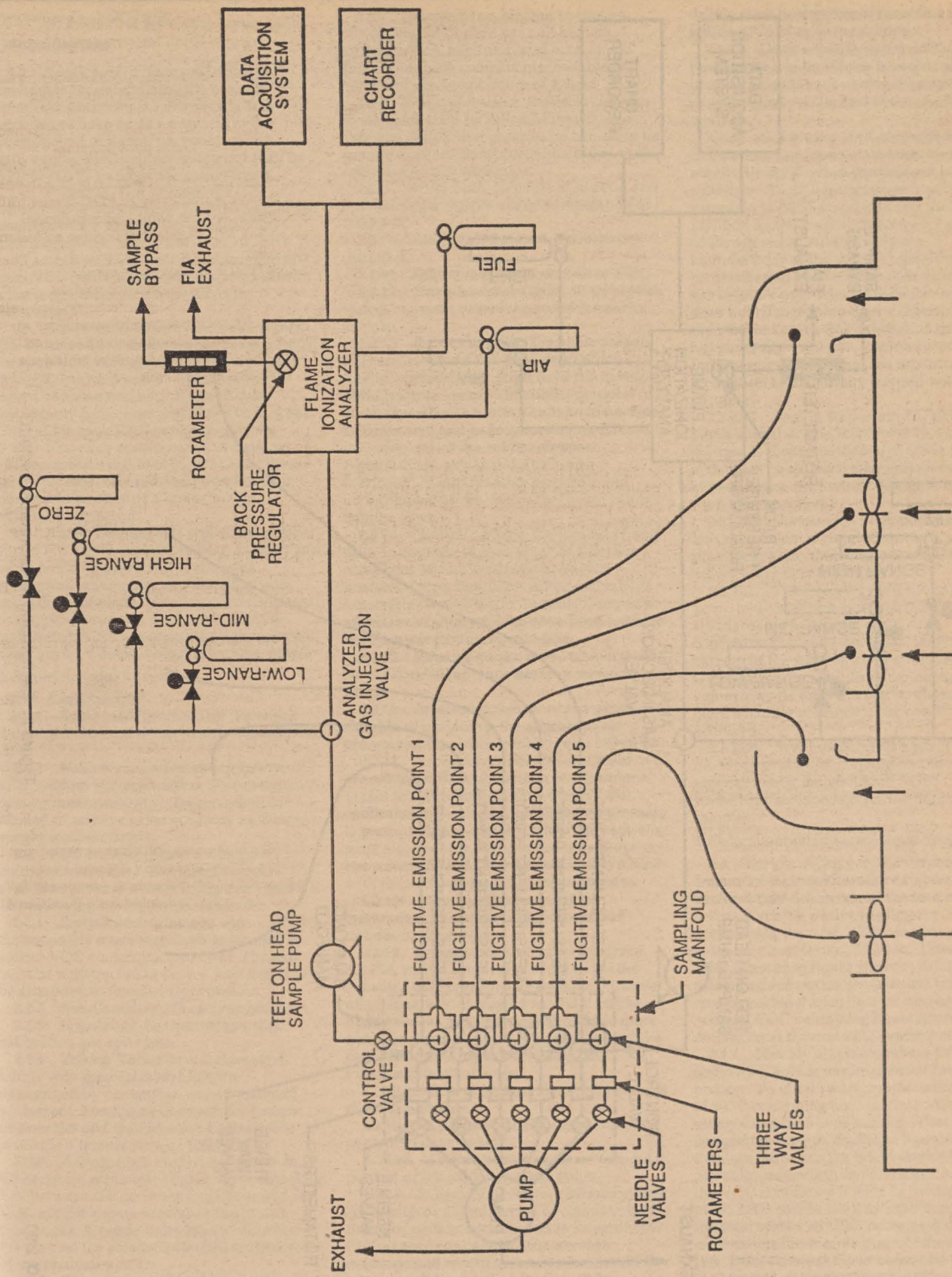


Figure 1. Fugitive emissions measurement system.

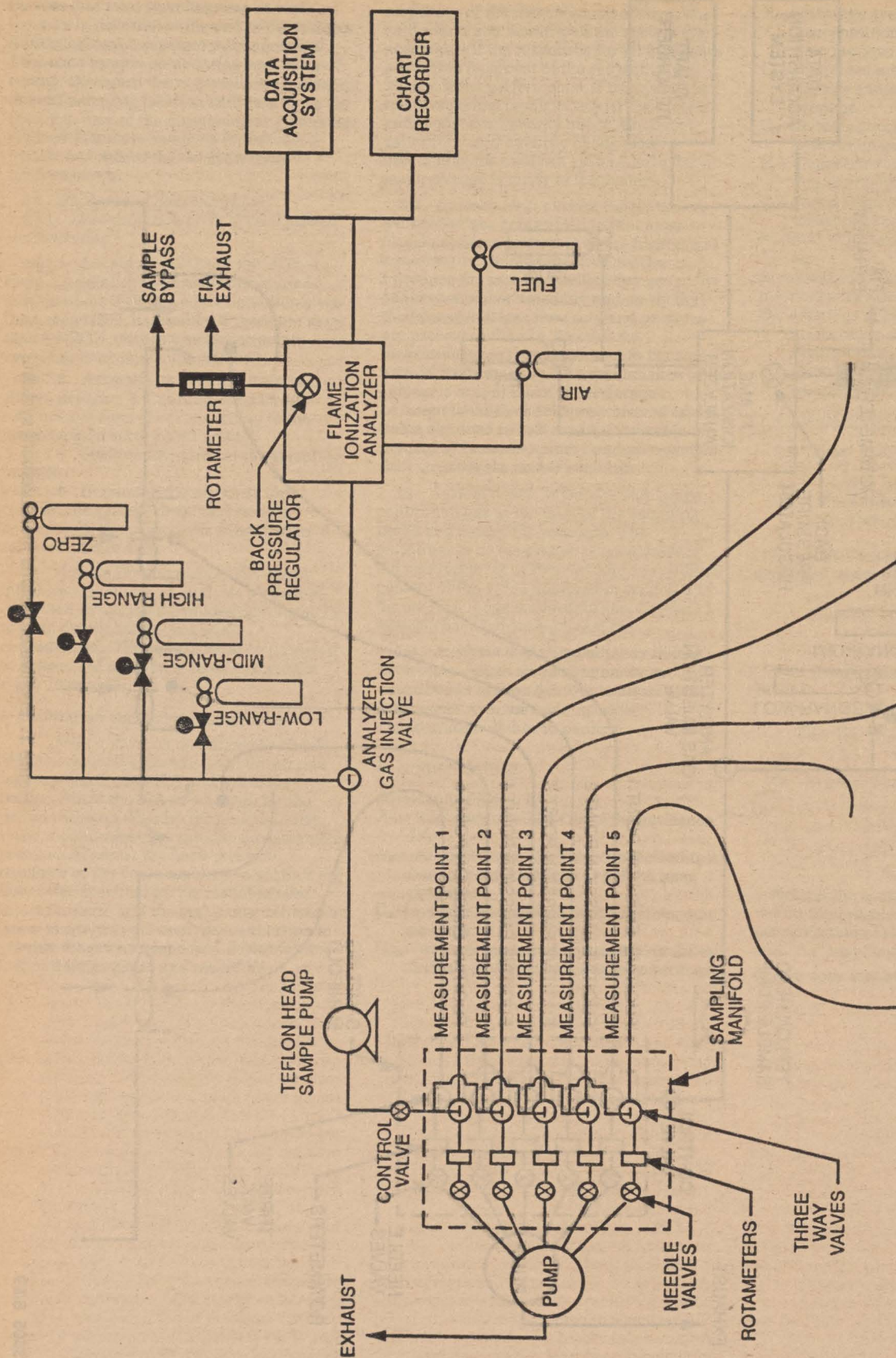


Figure 2. Background measurement system.

Procedure L—VOC Input

1. Introduction

1.1 Applicability. This procedure is applicable for determining the input of volatile organic compounds (VOC). It is intended to be used as a segment in the development of liquid/gas protocols for determining VOC capture efficiency (CE) for surface coating and printing operations.

1.2 Principle. The amount of VOC introduced to the process (I) is the sum of the products of the weight (W) of each VOC containing liquid (ink, paint, solvent, etc.) used and its VOC content (V). A sample of each VOC containing liquid is analyzed with a flame ionization analyzer (FIA) to determine V.

1.3 Estimated measurement uncertainty. The measurement uncertainties are estimated for each VOC containing liquid as follows: $W = \pm 2.0$ percent and $V = \pm 12.0$ percent. Based on these numbers, the probable uncertainty for I is estimated at about ± 12.2 percent for each VOC containing liquid.

1.4 Sampling requirements. A capture efficiency test shall consist of at least three sampling runs. The sampling time for each run should be at least 8 hours, unless otherwise approved.

1.5 Notes. Because this procedure is often applied in highly explosive areas, caution and care should be exercised in choosing appropriate equipment and installing and using the equipment. Mention of trade names or company products does not constitute endorsement. All gas concentrations (percent, ppm) are by volume, unless otherwise noted.

2. Apparatus and Reagents

2.1 Liquid weight.

2.1.1 Balances/digital scales. To weigh drums of VOC containing liquids to within 0.2 lb.

2.1.2 Volume measurement apparatus (alternative). Volume meters, flow meters, density measurement equipment, etc., as needed to achieve same accuracy as direct weight measurements.

2.2 VOC content (flame ionization analyzer technique). The liquid sample analysis system is shown in Figures 1 and 2. The following equipment is required:

2.2.1 Sample collection can. An appropriately sized metal can to be used to collect VOC containing materials. The can must be constructed in such a way that it can be grounded to the coating container.

2.2.2 Needle valves. To control gas flow.

2.2.3 Regulators. For carrier gas and calibration gas cylinders.

2.2.4 Tubing. Teflon or stainless steel tubing with diameters and lengths determined by connection requirements of equipment. The tubing between the sample oven outlet and the FIA shall be heated to maintain a temperature of $120 \pm 5^\circ\text{C}$.

2.2.5 Atmospheric vent. A tee and 0- to 0.5-liter/min rotameter placed in the sampling line between the carrier gas cylinder and the VOC sample vessel to release the excess carrier gas. A toggle valve placed between the tee and the rotameter facilitates leak tests of the analysis system.

2.2.6 Thermometer. Capable of measuring the temperature of the hot water bath to within 1°C .

2.2.7 Sample oven. Heated enclosure, containing calibration gas coil heaters, critical orifice, aspirator, and other liquid sample analysis components, capable of maintaining a temperature of $120 \pm 5^\circ\text{C}$.

2.2.8 Gas coil heaters. Sufficient lengths of stainless steel or Teflon tubing to allow zero and calibration gases to be heated to the sample oven temperature before entering the critical orifice or aspirator.

2.2.9 Water bath. Capable of heating and maintaining a sample vessel temperature of $100 \pm 5^\circ\text{C}$.

2.2.10 Analytical balance. To measure ± 0.001 g.

2.2.11 Disposable syringes. 2-cc or 5-cc.

2.2.12 Sample vessel. Class, 40-ml septum vial. A separate vessel is needed for each sample.

2.2.13 Rubber stopper. Two-hole stopper to accommodate 3.2-mm ($\frac{1}{8}$ -in.) Teflon tubing, appropriately sized to fit the opening of the sample vessel. The rubber stopper should be wrapped in Teflon tape to provide a tighter seal and to prevent any reaction of the sample with the rubber stopper. Alternatively, any leak-free closure fabricated of non-reactive materials and accommodating the necessary tubing fittings may be used.

2.2.14 Critical orifices. Calibrated critical orifices capable of providing constant flow rates from 50 to 250 ml/min at known pressure drops. Sapphire orifice assemblies (available from O'Keefe Controls Company) and glass capillary tubing have been found to be adequate for this application.

2.2.15 Vacuum gauge. 0- to 760-mm (0- to 30-in.) Hg U-tube manometer or vacuum gauge.

2.2.16 Pressure gauge. Bourdon gauge capable of measuring the maximum air pressure at the aspirator inlet (e.g., 100 psig).

2.2.17 Aspirator. A device capable of generating sufficient vacuum at the sample vessel to create critical flow through the calibrated orifice when sufficient air pressure is present at the aspirator inlet. The aspirator must also provide sufficient sample pressure to operate the FIA. The sample is also mixed with the dilution gas within the aspirator.

2.2.18 Soap bubble meter. Of an appropriate size to calibrate the critical orifices in the system.

2.2.19 Organic concentration analyzer. An FIA with a span value of 1.5 times the expected concentration as propane; however other span values may be used if it can be demonstrated that they would provide more accurate measurements. The system shall be capable of meeting or exceeding the following specifications:

2.2.19.1 Zero drift. Less than ± 3.0 percent of the span value.

2.2.19.2 Calibration drift. Less than ± 3.0 percent of span value.

2.2.19.3 Calibration error. Less than ± 5.0 percent of the calibration gas value.

2.2.20 Integrator/data acquisition system. An analog or digital device or computerized data acquisition system used to integrate the FIA response or compute the average response and record measurement data. The minimum data sampling frequency for computing average or integrated values is one measurement value every 5 seconds. The

device shall be capable of recording average values at least once per minute.

2.2.21 Chart recorder (optional). A chart recorder or similar device is recommended to provide a continuous analog display of the measurement results during the liquid sample analysis.

2.2.22 Calibration and other gases. For calibration, fuel, and combustion air (if required) contained in compressed gas cylinders. All calibration gases shall be traceable to NIST standards and shall be certified by the manufacturer to ± 1 percent of the tag value. Additionally, the manufacturer of the cylinder should provide a recommended shelf life for each calibration gas cylinder over which the concentration does not change more than ± 2 percent from the certified value. For calibration gas values not generally available, alternative methods for preparing calibration gas mixtures, such as dilution systems, may be used with prior approval.

2.2.22.1 Fuel. A 40 percent H_2 /60 percent He or 40 percent H_2 /60 percent N_2 gas mixture is recommended to avoid an oxygen synergism effect that reportedly occurs when oxygen concentration varies significantly from a mean value.

2.2.22.2 Carrier gas. High purity air with less than 1 ppm of organic material (as propane) or less than 0.1 percent of the span value, whichever is greater.

2.2.22.3 FIA linearity calibration gases. Low-, mid-, and high-range gas mixture standards with nominal propane concentrations of 20-30, 45-55, and 70-80 percent of the span value in air, respectively. Other calibration values and other span values may be used if it can be shown that more accurate measurements would be achieved.

2.2.22.4 System calibration gas. Gas mixture standard containing propane in air, approximately the undiluted VOC concentration expected for the liquid samples.

3. Determination of Liquid Input Weight

3.1 Weight difference. Determine the amount of material introduced to the process as the weight difference of the feed material before and after each sampling run. In determining the total VOC containing liquid usage, account for: (a) The initial (beginning) VOC containing liquid mixture; (b) any solvent added during the test run; (c) any coating added during the test run; and (d) any residual VOC containing liquid mixture remaining at the end of the sample run.

3.1.1 Identify all points where VOC containing liquids are introduced to the process. To obtain an accurate measurement of VOC containing liquids, start with an empty fountain (if applicable). After completing the run, drain the liquid in the fountain back into the liquid drum (if possible), and weigh the drum again. Weigh the VOC containing liquids to ± 0.5 percent of the total weight (full) or ± 0.1 percent of the total weight of VOC containing liquid used during the sample run, whichever is less. If the residual liquid cannot be returned to the drum, drain the fountain into a preweighed empty drum to determine the final weight of the liquid.

3.1.2 If it is not possible to measure a single representative mixture, than weigh the various components separately (e.g., if solvent is added during the sampling run, weigh the solvent before it is added to the mixture). If a fresh drum of VOC containing liquid is needed during the run, then weigh both the empty drum and fresh drum.

3.2 *Volume measurement (alternative).* If direct weight measurements are not feasible, the tester may use volume meters and flow rate meters (and density measurements) to determine the weight of liquids used if it can be demonstrated that the technique produces results equivalent to the direct weight measurements. If a single representative mixture cannot be measured, measure the components separately.

4. Determination of VOC Content in Input Liquids

4.1 *Collection of liquid samples.*

4.1.1 Collect a 100-ml or larger sample of the VOC containing liquid mixture at each application location at the beginning and end of each test run. A separate sample should be taken of each VOC containing liquid added to the application mixture during the test run. If a fresh drum is needed during the sampling run, then obtain a sample from the fresh drum.

4.1.2 When collecting the sample, ground the sample container to the coating drum. Fill the sample container as close to the rim as possible to minimize the amount of headspace.

4.1.3 After the sample is collected, seal the container so the sample cannot leak out or evaporate.

4.1.4 Label the container to identify clearly the contents.

4.2 *Liquid sample VOC content.*

4.2.1 Assemble the liquid VOC content analysis system as shown in Figure 1.

4.2.2 Permanently identify all of the critical orifices that may be used. Calibrate each critical orifice under the expected operating conditions (i.e., sample vacuum and temperature) against a volume meter as described in section 5.3.

4.2.3 Label and tare the sample vessels (including the stoppers and caps) and the syringes.

4.2.4 Install an empty sample vessel and perform a leak test of the system. Close the carrier gas valve and atmospheric vent and evacuate the sample vessel to 250 mm (10 in.) Hg absolute or less using the aspirator. Close the toggle valve at the inlet to the aspirator and observe the vacuum for at least one minute. If there is any change in the sample pressure, release the vacuum, adjust or repair the apparatus as necessary and repeat the leak test.

4.2.5 Perform the analyzer calibration and linearity checks according to the procedure in section 5.1. Record the responses to each of the calibration gases and the back-pressure setting of the FIA.

4.2.6 Establish the appropriate dilution ratio by adjusting the aspirator air supply or substituting critical orifices. Operate the aspirator at a vacuum of at least 25 mm (1 in.) Hg greater than the vacuum necessary to achieve critical flow. Select the dilution ratio so that the maximum response of the FIA to

the sample does not exceed the high-range calibration gas.

4.2.7 Perform system calibration checks at two levels by introducing compressed gases at the inlet to the sample vessel while the aspirator and dilution devices are operating. Perform these checks using the carrier gas (zero concentration) and the system calibration gas. If the response to the carrier gas exceeds ± 0.5 percent of span, clean or repair the apparatus and repeat the check. Adjust the dilution ratio as necessary to achieve the correct response to the upscale check, but do not adjust the analyzer calibration. Record the identification of the orifice, aspirator air supply pressure, FIA back-pressure, and the responses of the FIA to the carrier and system calibration gases.

4.2.8 After completing the above checks, inject the system calibration gas for approximately 10 minutes. Time the exact duration of the gas injection using a stopwatch. Determine the area under the FIA response curve and calculate the system response factor based on the sample gas flow rate, gas concentration, and the duration of the injection as compared to the integrated response using Equations 2 and 3.

4.2.9 Verify that the sample oven and sample line temperatures are 120 ± 5 °C and that the water bath temperature is 100 ± 5 °C.

4.2.10 Fill a tared syringe with approximately 1 g of the VOC containing liquid and weigh it. Transfer the liquid to a tared sample vessel. Plug the sample vessel to minimize sample loss. Weigh the sample vessel containing the liquid to determine the amount of sample actually received. Also, as a quality control check, weigh the empty syringe to determine the amount of material delivered. The two coating sample weights should agree within ± 0.02 g. If not, repeat the procedure until an acceptable sample is obtained.

4.2.11 Connect the vessel to the analysis system. Adjust the aspirator supply pressure to the correct value. Open the valve on the carrier gas supply to the sample vessel and adjust it to provide a slight excess flow to the atmospheric vent. As soon as the initial response of the FIA begins to decrease, immerse the sample vessel in the water bath. (Applying heat to the sample vessel too soon may cause the FID response to exceed the calibrated range of the instrument, and thus invalidate the analysis.)

4.2.12 Continuously measure and record the response of the FIA until all of the volatile material has been evaporated from the sample and the instrument response has returned to the baseline (i.e., response less than 0.5 percent of the span value). Observe the aspirator supply pressure, FIA back-pressure, atmospheric vent, and other system operating parameters during the run; repeat the analysis procedure if any of these parameters deviate from the values established during the system calibration checks in Section 4.2.7. After each sample perform the drift check described in Section 5.2. If the drift check results are acceptable, calculate the VOC content of the sample using the equations in Section 7. Integrate the area under the FIA response curve, or determine the average concentration response and the duration of sample analysis.

5. Calibration and Quality Assurance

5.1 *FIA calibration and linearity check.* Make necessary adjustments to the air and fuel supplies for the FIA and ignite the burner. Allow the FIA to warm up for the period recommended by the manufacturer. Inject a calibration gas into the measurement system and adjust the back-pressure regulator to the value required to achieve the flow rates specified by the manufacturer. Inject the zero- and the high-range calibration gases and adjust the analyzer calibration to provide the proper responses. Inject the low- and mid-range gases and record the responses of the measurement system. The calibration and linearity of the system are acceptable if the responses for all four gases are within 5 percent of the respective gas values. If the performance of the system is not acceptable, repair or adjust the system and repeat the linearity check. Conduct a calibration and linearity check after assembling the analysis system and after a major change is made to the system.

5.2 *Systems drift checks.* After each sample, repeat the system calibration checks in Section 4.2.7 before any adjustments to the FIA or measurement system are made. If the zero or calibration drift exceeds ± 3 percent of the span value, discard the result and repeat the analysis.

5.3 *Critical orifice calibration.*

5.3.1 Each critical orifice must be calibrated at the specific operating conditions that it will be used. Therefore, assemble all components of the liquid sample analysis system as shown in Figure 3. A stopwatch is also required.

5.3.2 Turn on the sample oven, sample line, and water bath heaters and allow the system to reach the proper operating temperature. Adjust the aspirator to a vacuum of 380 mm (15 in.) Hg vacuum. Measure the time required for one soap bubble to move a known distance and record barometric pressure.

5.3.3 Repeat the calibration procedure at a vacuum of 408 mm (16 in.) Hg and at 25-mm (1-in.) Hg intervals until three consecutive determinations provide the same flow rate. Calculate the critical flow rate for the orifice in ml/min at standard conditions. Record the vacuum necessary to achieve critical flow.

6. Nomenclature

- A_L = area under the response curve of the liquid sample, area count.
- A_S = area under the response curve of the calibration gas, area count.
- C_S = actual concentration of system calibration gas, ppm propane.
- $K = 1.830 \times 10^{-8}$ g/(ml-ppm).
- L = total VOC content of liquid input, kg.
- M_L = mass of liquid sample delivered to the sample vessel, g.
- q = flow rate through critical orifice, ml/min.
- RF = liquid analysis system response factor, g/area count.
- T_S = total gas injection time for system calibration gas during integrator calibration, min.
- V_{Fj} = final VOC fraction of VOC containing liquid j .
- V_{Uj} = initial VOC fraction of VOC containing liquid j .

V_{Aj} = VOC fraction of VOC containing liquid j added during the run.

V = VOC fraction of liquid sample.

W_{Aj} = weight of VOC containing liquid j remaining at end of the run, kg.

W_{Uj} = weight of VOC containing liquid j at beginning of the run, kg.

W_{Aj} = weight of VOC containing liquid j added during the run, kg.

7.2 Liquid sample analysis system response factor for systems using integrators, grams/area counts.

$$L = \sum_{j=1}^n V_{Aj} W_{Aj} - \sum_{j=1}^n V_{Uj} W_{Uj} + \sum_{j=1}^n V_{Aj} W_{Aj} \quad \text{Eq. 1}$$

$$RF = \frac{C_s q T_s K}{A_s} \quad \text{Eq. 2}$$

7. Calculations

7.1 Total VOC content of the input VOC containing liquid.

7.3 VOC content of the liquid sample.

$$V = \frac{A_s RF}{M_s} \quad \text{Eq. 3}$$

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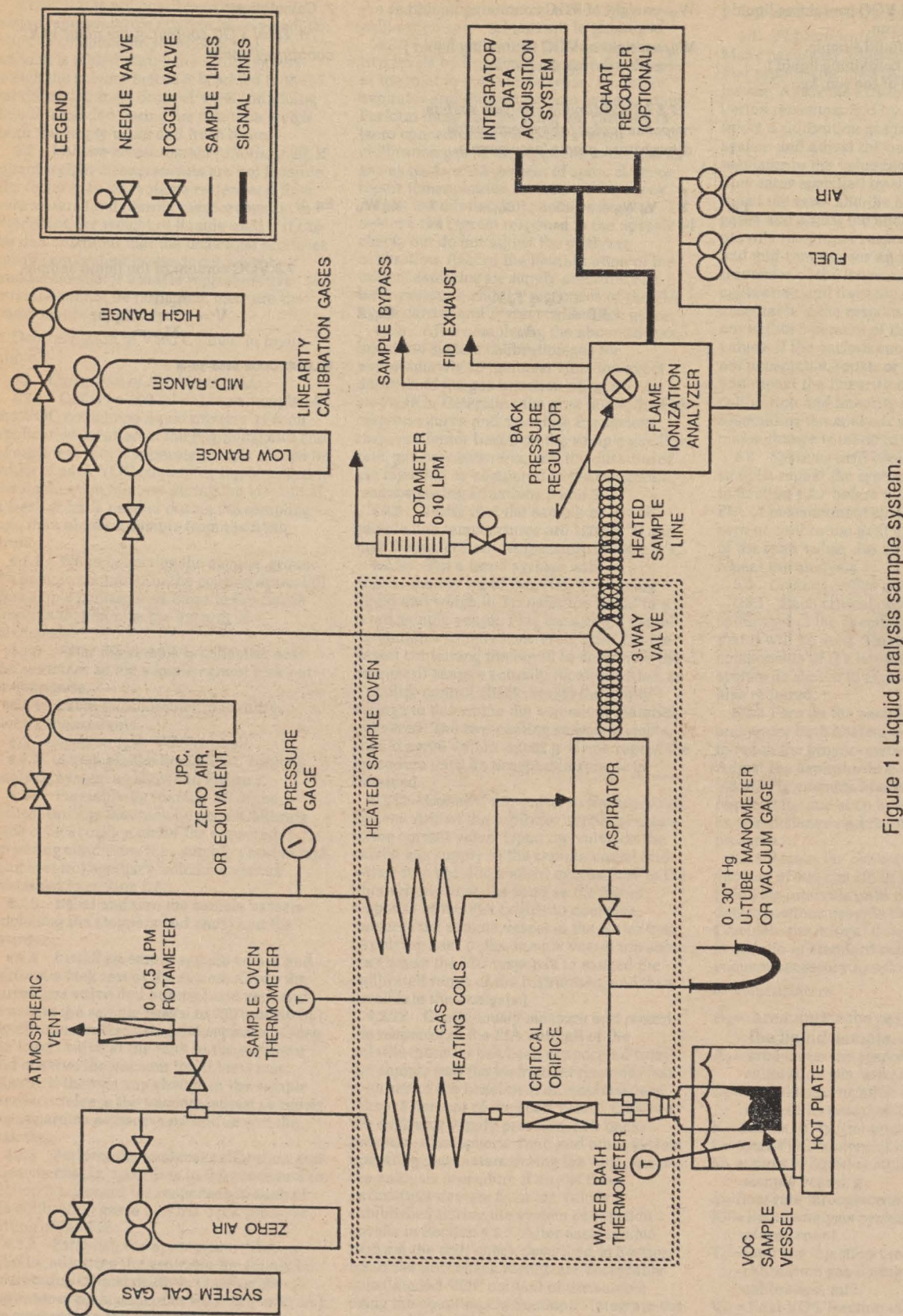


Figure 1. Liquid analysis sample system.

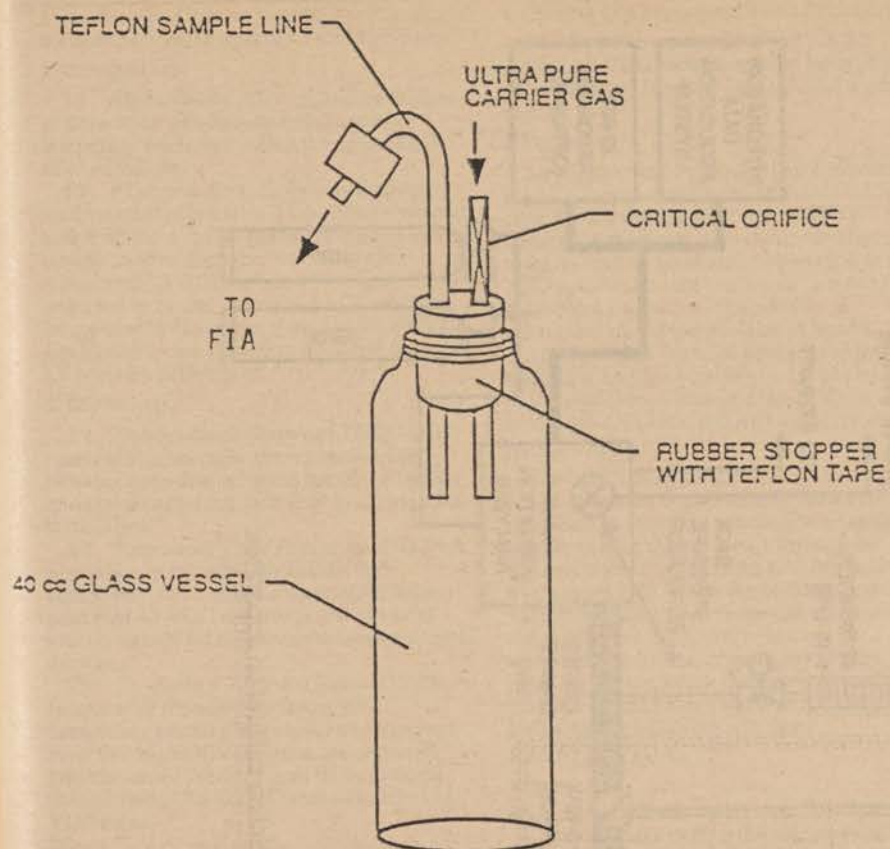


Figure 2. VOC sampling vessel.

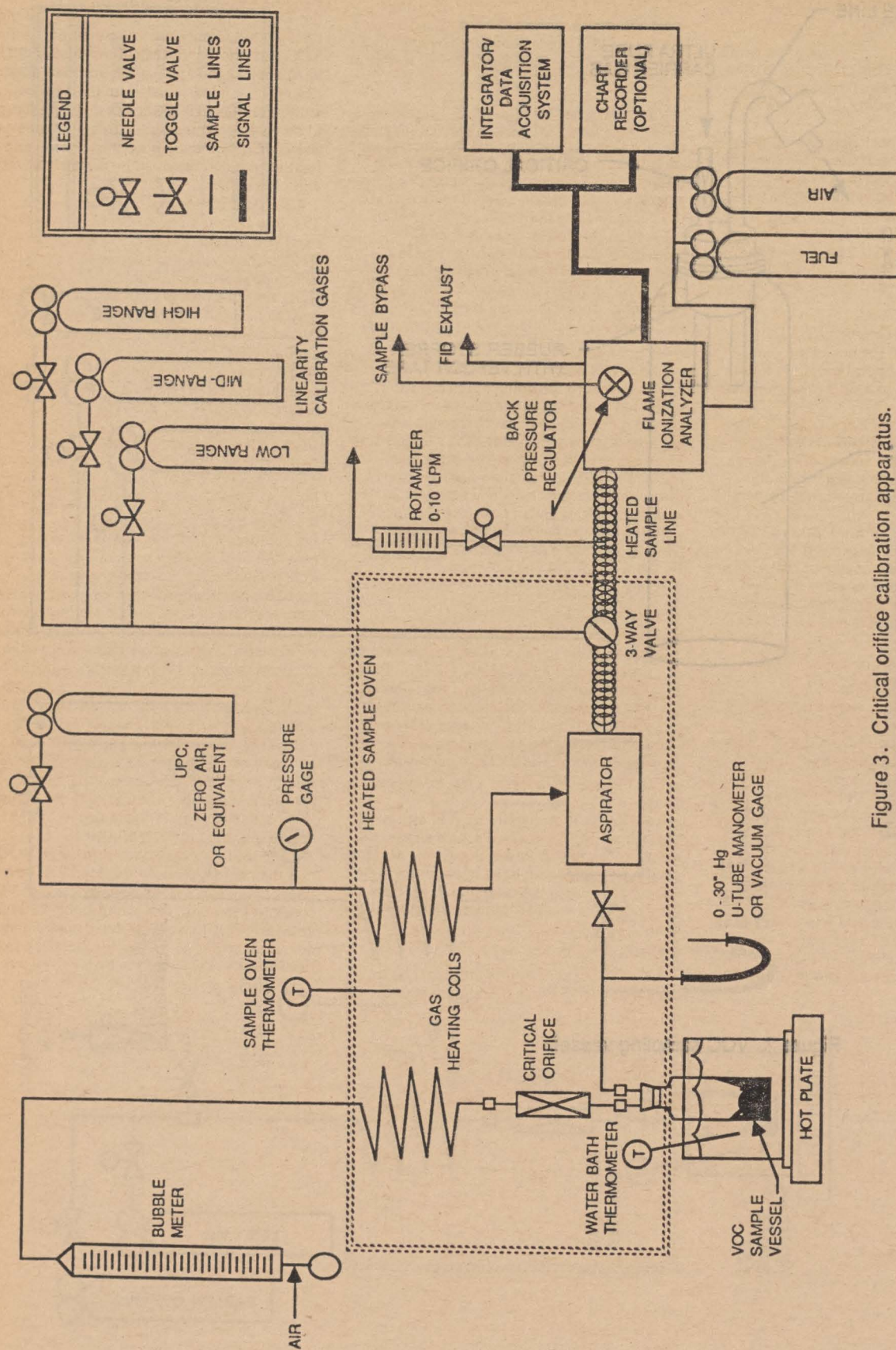


Figure 3. Critical orifice calibration apparatus.

Procedure T—Criteria for and Verification of a Permanent or Temporary Total Enclosure

1. Introduction

1.1 Applicability. This procedure is used to determine whether a permanent or temporary enclosure meets the criteria of a total enclosure.

1.2 Principle. An enclosure is evaluated against a set of criteria. If the criteria are met and if all the exhaust gases are ducted to a control device, then the volatile organic compounds (VOC) capture efficiency (CE) is assumed to be 100 percent and CE need not be measured. However, if part of the exhaust gas stream is not ducted to a control device, CE must be determined.

2. Definitions

2.1 Natural Draft Opening (NDO)—Any permanent opening in the enclosure that remains open during operation of the facility and is not connected to a duct in which a fan is installed.

2.2 Permanent Total Enclosure (PTE)—A permanently installed enclosure that completely surrounds a source of emissions such that all VOC emissions are captured and contained for discharge through a control device.

2.3 Temporary Total Enclosure (TTE)—A temporarily installed enclosure that completely surrounds a source of emissions such that all VOC emissions are captured and contained for discharge through ducts that allow for the accurate measurement of VOC rates.

3. Criteria of a Temporary Total Enclosure

3.1 Any NDO shall be at least 4 equivalent opening diameters from each VOC emitting point.

3.2 Any exhaust point from the enclosure shall be at least 4 equivalent duct or hood diameters from each NDO.

3.3 The total area of all NDO's shall not exceed 5 percent of the surface area of the enclosure's four walls, floor, and ceiling.

3.4 The average facial velocity (FV) of air through all NDO's shall be at least 3,600 m/hr (200 fpm). The direction of air through all NDO's shall be into the enclosure.

3.5 All access doors and windows whose areas are not included in section 3.3 and are not included in the calculation in section 3.4 shall be closed during routine operation of the process.

4. Criteria of a Permanent Total Enclosure

4.1 Same as sections 3.1 and 3.3–3.5.

4.2 All VOC emissions must be captured and contained for discharge through a control device.

5. Procedure

5.1 Determine the equivalent diameters of the NDO's and determine the distances from each VOC emitting point to all NDO's. Determine the equivalent diameter of each exhaust duct or hood and its distance to all NDO's. Calculate the distances in terms of equivalent diameters. The number of equivalent diameters shall be at least 4.

5.2 Measure the total area (A_t) of the enclosure and the total area (A_N) of all NDO's of the enclosure. Calculate the NDO to enclosure area ratio (NEAR) as follows:

$$NEAR = A_N / A_t$$

The NEAR must be ≤ 0.05 .

5.3 Measure the volumetric flow rate, corrected to standard conditions, of each gas stream exiting the enclosure through an exhaust duct or hood using EPA Method 2. In some cases (e.g., when the building is the enclosure), it may be necessary to measure the volumetric flow rate, corrected to standard conditions, of each gas stream entering the enclosure through a forced makeup air duct using Method 2. Calculate FV using the following equation:

$$FV = [Q_0 - Q_i] / A_N$$

where:

Q_0 = the sum of the volumetric flow from all gas streams exiting the enclosure through an exhaust duct or hood.

Q_i = the sum of the volumetric flow from all gas streams into the enclosure through a forced makeup air duct; zero, if there is no forced makeup air into the enclosure.

A_N = total area of all NDO's in enclosure.

The FV shall be at least 3,600 m/hr (200 fpm).

5.4 Verify that the direction of air flow through all NDO's is inward. Use streamers, smoke tubes, tracer gases, etc. Strips of plastic wrapping film have been found to be effective. Monitor the direction of air flow at intervals of at least 10 minutes for at least 1 hour.

6. Quality Assurance

6.1 The success of this protocol lies in designing the TTE to simulate the conditions

that exist without the TTE, i.e., the effect of the TTE on the normal flow patterns around the affected facility or the amount of fugitive VOC emissions should be minimal. The TTE must enclose the application stations, coating reservoirs, and all areas from the application station to the oven. The oven does not have to be enclosed if it is under negative pressure. The NDO's of the temporary enclosure and a fugitive exhaust fan must be properly sized and placed.

6.2 Estimate the ventilation rate of the TTE that best simulates the conditions that exist without the TTE, i.e., the effect of the TTE on the normal flow patterns around the affected facility or the amount of fugitive VOC emissions should be minimal. Figure 1 may be used as an aid. Measure the concentration (C_G) and flow rate (Q_G) of the captured gas stream, specify a safe concentration (C_F) for the fugitive gas stream, estimate the CE, and then use the plot in Figure 1 to determine the volumetric flowrate of the fugitive gas stream (Q_F). A fugitive VOC emission exhaust fan that has a variable flow control is desirable.

6.2.1 Monitor the concentration of VOC into the capture device without the TTE. To minimize the effect of temporal variation on the captured emissions, the baseline measurement should be made over as long a time period as practical. However, the process conditions must be the same for the measurement in section 6.2.3 as they are for this baseline measurement. This may require short measuring times for this quality control check before and after the construction of the TTE.

6.2.2 After the TTE is constructed, monitor the VOC concentration inside the TTE. This concentration shall continue to increase and must not exceed the safe level according to OSHA requirements for permissible exposure limits. An increase in VOC concentration indicates poor TTE design or poor capture efficiency.

6.2.3 Monitor the concentration of VOC into the capture device with the TTE. To limit the effect of the TTE on the process, the VOC concentration with and without the TTE must be within ± 10 percent. If the measurements do not agree, adjust the ventilation rate from the TTE until they agree within 10 percent.

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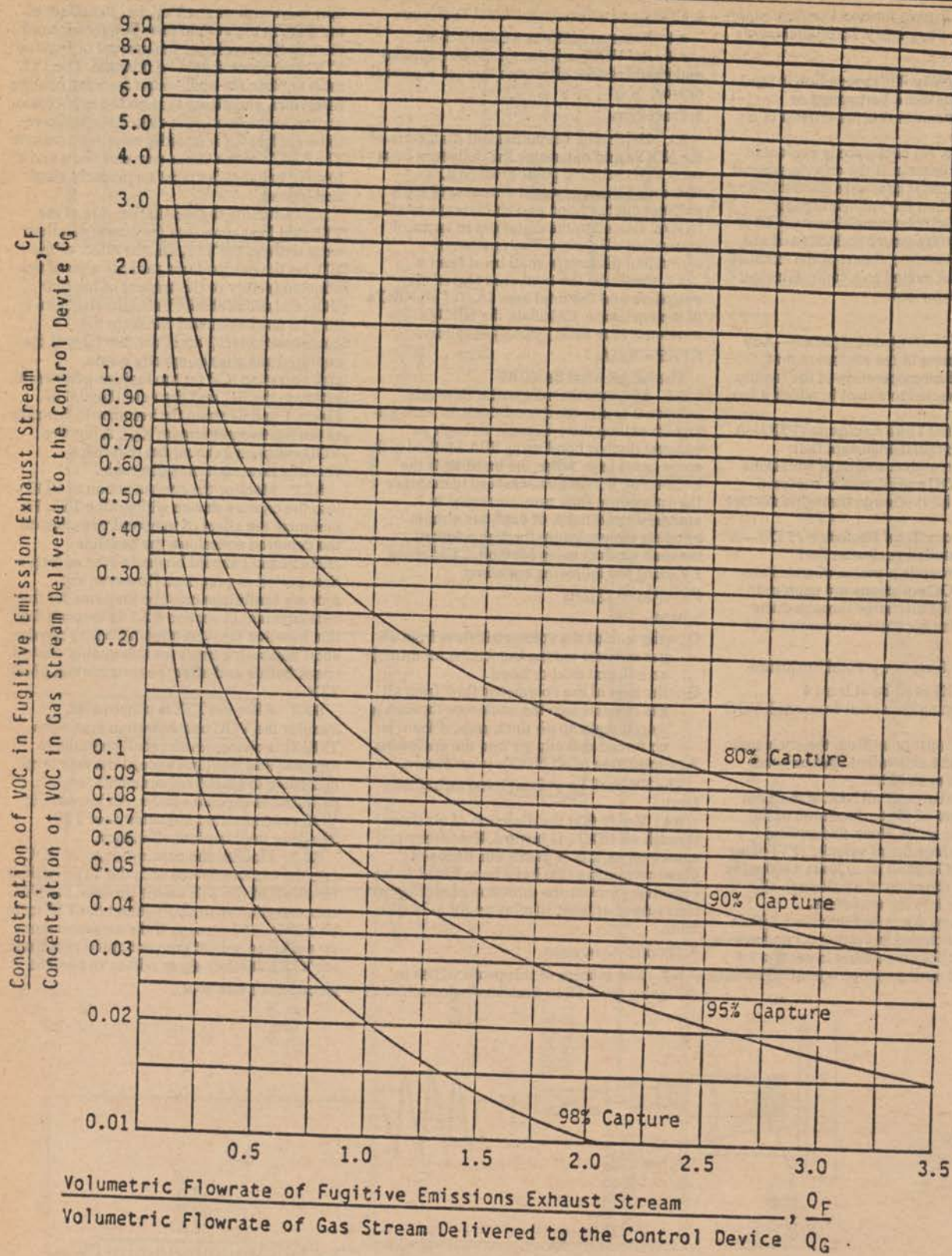


Figure 1. The Crumpler Chart

3. 40 CFR part 52 is amended by adding a new § 52.742 to subpart O to read as follows:

§ 52.742 Incorporation by reference.

The materials listed below are incorporated by reference in the corresponding sections noted. The incorporation by reference was approved by the Director of the Office of Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. These materials are incorporated as they exist on the date of approval, and a notice of any change in these materials will be published in the *Federal Register*. The materials are available from the sources listed below.

(a) The following material is available for purchase from the American Society for Testing and Materials (ASTM), 1916 Race Street, Philadelphia, Pennsylvania, 19103.

(1) ASTM D1475-85, Standard Test Method for Density of Paint, Varnish, Lacquer, and Related Products, for § 52.741(a)(4)(i)(B)(3)(i).

(2) ASTM D2369-87, Standard Test Method for Volatile Content of Coatings, for § 52.741(a)(4)(i)(B)(3)(ii).

(3) ASTM D3792-86, Standard Test Method for Water Content of Water-Reducible Paints by Direct Injection into a Gas Chromatograph, for § 52.741(a)(4)(i)(B)(3)(iii).

(4) ASTM D4017-81 (Reapproved 1987), Standard Test Method for Water in Paints and Paint Materials by Karl Fischer Method, for § 52.741(a)(4)(i)(B)(3)(iv).

(5) ASTM D4457-85, Standard Test Method for Determination of Dichloromethane and 1,1,1-Trichloroethane in Paints and Coatings by Direct Injection into a Gas Chromatograph, for § 52.741(a)(4)(i)(B)(3)(v).

(6) ASTM D2697-86, Standard Test Method for Volume Nonvolatile Matter in Clear or Pigmented Coatings, for § 52.741(a)(4)(i)(B)(3)(vi).

(7) ASTM D3980-87, Standard Practice for Interlaboratory Testing of Paint and Related Materials, for § 52.741(a)(4)(i)(B)(3)(vii).

(8) ASTM E180-85, Standard Practice for Determining the Precision of ASTM Methods for Analysis and Testing of Industrial Chemicals, for § 52.741(a)(4)(i)(B)(3)(viii).

(9) ASTM D2372-85, Standard Method of Separation of Vehicle from Solvent-Reducible Paints, for § 52.741(a)(4)(i)(B)(3)(ix).

(10) ASTM D2879-86, Standard Test Method for Vapor Pressure-Temperature Relationship and Initial Decomposition Temperature of Liquids by Isotenoscope, for § 52.741(a)(3), (a)(8)(iii), (a)(9)(iii), and (a)(10)(iii).

(11) ASTM D323-82, Standard Test Method for Vapor Pressure of Petroleum Products (Reid Method), for § 52.741(a)(3).

(12) ASTM D86-82, Standard Method for Distillation of Petroleum Products, for § 52.741(a)(3).

(13) ASTM D3925-81 (Reapproved 1985), Standard Practice for Sampling Liquid Paints and Related Pigment Coatings, for § 52.741(a)(4)(i)(A)(1).

(14) ASTM E300-86, Standard Practice for Sampling Industrial Chemicals, for § 52.741(a)(4)(i)(A)(2).

(b) The Evaporation Loss From External Floating-Roof Tanks, Publication 2517, second edition, February 1980, for § 52.741(a)(3) is available for purchase from the American Petroleum Institute, 2101 L Street, NW., Washington, DC, 20037.

(c) The Standard Industrial Classification Manual, 1987, for § 52.741(a)(3) is available for purchase from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC, 20402.

(d) 35 Illinois Administrative Code 215, June 1989, subparts (B), (E) (sections 215.182, 215.183, and 215.184), (K) (sections 215.301 and 215.302), (Q) (excluding sections 215.432 and 215.436), (R) (excluding sections 215.447, 215.450, and 215.452), (S), (V), (X), (Y) (sections 215.582, 215.583, and 215.584), and (Z) of 35 Ill. Adm. Code 215 for § 52.741 (d)(1)-(d)(3); (e)(3), (e)(4); (h)(2); (i)(1), (i)(2); (j)(1)-(j)(3); (q)(1); (s)(1); (u)(1), (3); (v)(1); (w)(1); and (x)(1), (x)(3) is available from the United States Environmental Protection Agency, Air and Radiation Division, Region V, 230 S. Dearborn, Chicago, IL, 60604.

4. Section 52.726 is further amended by adding paragraph (e) to read as follows:

§ 52.726 Control strategy—ozone

(e) Disapproval—The Administrator finds that the following State rules have not been demonstrated to be consistent with the reasonably available control technology requirements of section 172 of the Clean Air Act, as amended in 1977, and thus, are disapproved: subpart F, section 215.204(c); subpart F, section 215.206(b); subpart F, section 215.204(j)(4); subpart I; subpart AA; subpart PP; subpart QQ; subpart RR; subpart A, section 215.102; subpart T; subpart H, section 215.245; subpart F, section 215.207; and subpart A, section 215.107, all of title 35; Environmental Protection; subtitle B: Air Pollution;

Chapter 1: Pollution Control Board of the Illinois Administrative Code (June 1989).

5. Section 52.720 is amended by adding paragraph (c)(78) to read as follows:

§ 52.720 Identification of plan.

(c) * * *

(78) On January 28, 1983, June 25, 1987, August 21, 1987, September 28, 1987, October 2, 1987, December 22, 1987, January 8, 1988, March 29, 1988, and May 2, 1988 the State submitted stationary source control measures for incorporation in the ozone plan.

(i) *Incorporation by reference.* (A) The following sections of title 35, Environmental Protection; subtitle B: Air Pollution; Chapter 1: Pollution Control Board of the Illinois Administrative Code, (June 1989): section 211.122 (definitions of bead-dipping; component; dry cleaning facility; external floating roof; gas service; green tire spraying; green tires; heavy liquid; liquid mounted seal; liquid service; pneumatic rubber tire manufacture; refinery unit, process unit, or unit; tread end cementing; undertread cementing; valves not externally regulated; vapor collection system; vapor mounted primary seal; volatile organic liquid; and volatile organic material) of subpart B (part 211); section 215.104 (definitions of continuous process; in vacuum service; material recovery section; open-ended valve; polystyrene plant; polystyrene resin; repaired; styrene devolatilizer unit; and styrene recovery unit) of subpart A (part 215); sections 215.124, 215.125, and 215.126 of subpart B (part 215); section 215.205 of subpart F (part 215); sections 215.240, 215.241, and 215.249 of subpart H (part 215); section 215.408 of subpart P (part 215); sections 215.420 through 215.431, 215.433, 215.434, 215.435, 215.437, and 215.438, all of subpart Q (part 215); section 215.453 of subpart R (part 215); sections 215.465 and 215.466 of subpart S (part 215); sections 215.520, 215.521, 215.525, 215.526, and 215.527 all of subpart V (part 215); sections 215.582, 215.583, and 215.584 of subpart Y (part 215); sections 215.607 through 215.613 of subpart Z (part 215); and sections 215.875, 215.877, 215.879, 215.881, 215.883, and 215.886 all of subpart BB (part 215) are approved.

(ii) *Additional material.*

[FR Doc. 90-13929 Filed 6-28-90; 8:45 am]

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1. The first part of the document is a letter from the President of the United States to the Congress, dated January 1, 1861. It is a very important document, as it contains the President's message to the Congress at the beginning of his first term. The letter is written in a formal, dignified style, and it is one of the most important documents in American history.

2. The second part of the document is a report from the Secretary of the Treasury, dated January 1, 1861. It is a very important document, as it contains the Secretary's report to the Congress on the state of the Treasury at the beginning of his first term. The report is written in a formal, dignified style, and it is one of the most important documents in American history.

3. The third part of the document is a report from the Secretary of the Interior, dated January 1, 1861. It is a very important document, as it contains the Secretary's report to the Congress on the state of the Interior at the beginning of his first term. The report is written in a formal, dignified style, and it is one of the most important documents in American history.

4. The fourth part of the document is a report from the Secretary of the War, dated January 1, 1861. It is a very important document, as it contains the Secretary's report to the Congress on the state of the War at the beginning of his first term. The report is written in a formal, dignified style, and it is one of the most important documents in American history.

5. The fifth part of the document is a report from the Secretary of the Navy, dated January 1, 1861. It is a very important document, as it contains the Secretary's report to the Congress on the state of the Navy at the beginning of his first term. The report is written in a formal, dignified style, and it is one of the most important documents in American history.

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FRIDAY JUNE 29, 1990

Friday
June 29, 1990

Part III

Environmental Protection Agency

40 CFR Part 60

Standards of Performance for New
Stationary Sources; Rules and Proposed
Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-2960-5]

RIN 2060-AA30

Standards of Performance for New Stationary Sources; Volatile Organic Compound (VOC) Emissions From the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Processes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Standards of performance for air oxidation unit processes in the SOCMI were proposed in the Federal Register on October 21, 1983 (48 FR 48932). On May 16, 1985, the public comment period was reopened (50 FR 20446) for the purpose of allowing public comment on the results of a reanalysis of the costing procedures, the total resource effectiveness (TRE) equation and coefficients, and the designation of affected facility. This action promulgates standards of performance for SOCMI air oxidation unit processes. These standards implement section 111 of the Clean Air Act (CAA) and are based on the Administrator's determination that VOC emissions from air oxidation processes in the SOCMI cause or contribute significantly to air pollution which may reasonably be anticipated to endanger public health or welfare. The intended effect of these standards is to require all new, modified, and reconstructed air oxidation facilities to achieve an emission reduction that reflects the capabilities of the best demonstrated system of continuous emission reduction, considering costs, nonair quality health, and environmental and energy impacts.

EFFECTIVE DATE: June 29, 1990.

Under section 307(b)(1) of the CAA, judicial review of this new source performance standard (NSPS) is available only by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of today's publication of this rule. Under section 307(b)(2) of the CAA, the requirements that are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

INCORPORATION BY REFERENCE: The incorporation by reference of certain publications in these standards is

approved by the Director of the Office of the Federal Register as of June 29, 1990.

ADDRESSES: *Background Information Document.* The background information document (BID) for the promulgated standards may be obtained from the U.S. EPA Library (MD-35), Research Triangle Park, North Carolina 27711, telephone number (919) 541-2777. Please refer to "Air Oxidation Processes in Synthetic Organic Chemical Manufacturing Industry—Background Information for Promulgated Standards," EPA-450/3-82-001b. The BID contains: (1) A summary of all the public comments made on the proposed standards and the Administrator's response to the comments, (2) a summary of the changes made to the regulation since proposal, and (3) the final Environmental Impact Statement which summarizes the impacts of the standards.

Docket. A docket, number A-81-22, containing information considered by EPA in development of the promulgated standards, is available for public inspection between 8 a.m. and 4 p.m., Monday through Friday, at EPA's Central Docket Section (LE-131), South Conference Center, 401 M Street SW., Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Doug Bell or Ms. Debbie Stackhouse, telephone (919) 541-5568 and 5258, respectively, concerning regulatory decisions. Mr. Robert E. Rosensteel or Mr. Leslie B. Evans, telephone (919) 541-5608 and 5410, respectively, concerning technical aspects of the industry and control technologies. The address for the above contacts is Emission Standards Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION:

The Standards

Standards of performance for new sources established under section 111 of the CAA reflect:

... application of the best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated [section 111(a)(1)].

For convenience, this will be referred to as "best demonstrated technology" or "BDT."

The promulgated standards apply to new, modified, and reconstructed air oxidation facilities within the SOCMI. This includes any reactors that use air

as an oxidizing agent to produce one or more of the chemicals listed in § 60.617 of the regulation. The affected facility is designated as a single air oxidation reactor with its own individual recovery system (if any) or the combination of two or more air oxidation reactors and the common recovery system they share. A recovery system consists of any device, or devices, capable of and used for the purpose of recovering chemicals for use, reuse, or sale and may include both primary and secondary recovery devices. Some examples of recovery devices are absorbers, adsorbers, and condensers as well as certain devices that recover non-VOC's, such as ammonia and hydrogen chloride recovery units. Construction, reconstruction, or modification of the facility must have begun after October 21, 1983, for the standard to be applicable. Existing facilities are not subject to the standard unless modified or reconstructed as defined in 40 CFR 60.14 or 60.15.

The standards include emission reduction requirements and/or emission limits which are based on the emission reduction capabilities of BDT. However, the standards do not require that a specific device or technology be used for those facilities that must comply with the emission reduction requirements, although the Agency expects that those facilities required to reduce their VOC emissions by 98 weight-percent or to 20 parts per million by volume (ppmv) will use combustion devices (e.g., incinerators, flares, etc.). Rather, any control technology other than recovery devices as defined in the standards can be used as long as it can be demonstrated that it is at least as effective as BDT at reducing VOC emissions.

Due to variations in factors such as flow rate, heat content, and concentration of organic compounds, the total cost of control per unit of total organic compound (TOC) emission reduction would vary considerably among the different types of air oxidation facilities. The Administrator has determined that for some air oxidation facilities, the cost of control per unit of VOC reduced is unreasonably high. Thus, the designation of BDT by the Administrator has two aspects. First, for facilities that can reduce VOC emissions at a reasonable cost, BDT is the reduction of VOC emissions by 98 weight-percent or to 20 ppmv through the use of thermal incineration. For facilities that cannot reduce VOC emissions at a reasonable cost, BDT is no additional control.

To identify those facilities for which implementation of the emission reduction requirements would be too costly, a means of measuring the total cost to control VOC emissions from air oxidation facilities was developed. This means of measuring the cost to control is called the TRE index. Using the TRE index approach, the standards would require each owner or operator of an affected facility with a TRE less than 1.0 to either reduce process vent stream VOC emissions by 98 weight-percent or to 20 ppmv, whichever is less stringent, or for facilities with a TRE index value greater than 1.0 to consistently maintain a value greater than 1.0.

An equation is included in the regulation for determining the TRE index value of each vent stream from an affected facility. The process vent stream flow rate, TOC emission rate, net heating value and corrosion properties (whether or not halogenated compounds are present) must be determined according to the specified Reference Methods in order to calculate the TRE index value. These vent stream characteristics would be measured following the last product recovery device (e.g., condensers, absorbers, carbon adsorbers).

The structure of the standards allows an affected facility with a TRE index value of less than 1.0 to add a recovery device; improve the existing recovery system efficiency; or alter the process operation so that the TRE value would increase above 1.0 and; therefore, VOC emissions would not have to be reduced by 98 weight-percent or to 20 ppmv. Increased recovery efficiency would have the advantage of achieving additional emission reduction, less energy usage, lower costs, and increased recovery of compounds or increased retention of products. The additional emission reduction could be as much as 30 percent more than current industry practice.

If a boiler or process heater were used to comply with the percent reduction or emission limit, the standards would also require that the air oxidation vent stream be introduced in the flame zone of the boiler or process heater. If a boiler or process heater were used to comply with the standards, the owner or operator would be required to monitor and record continuously the vent stream flow (using a flow indicator as described later) to the device and the firebox operating temperature. For boilers or process heaters of 44 MW (150 million/Btu) design heat input capacity or greater, no temperature monitoring is required but records (such as steam production records) would be required

which would verify the periods of operation of the heat generating unit.

A steam-assisted flare, an air-assisted flare, and a flare with no assist are considered to be capable of achieving 98 weight-percent emission reduction and may be used to meet the standards, provided that the flares are operated in accordance with the requirements in 40 CFR 60.18. Each owner or operator complying with the standards by using a smokeless flare would be required to monitor continuously the presence of the pilot flame. Ultra-violet beam sensors or thermocouples are acceptable for this purpose. A flow indicator would also be required that provides a record of vent stream flow to the flare.

Each owner or operator complying with the standards by using an incinerator would be required to monitor continuously and record the firebox operating temperature or, if a catalytic oxidizer were used, the temperature before and after the catalyst bed. A vent stream flow indicator is also required for each affected facility and must be installed as close to the combustion device as possible but immediately before the vent stream is joined with any vent stream not part of the affected facility. Records of vent stream flow must be maintained. If the emission reduction requirements were achieved by other means, the owner or operator would be required to provide information describing the operation of the control device and the parameter(s) that indicate proper operation and maintenance of the device so that the enforcing agency could specify appropriate monitoring requirements.

Each owner or operator who complies with the standards by maintaining a vent stream TRE index value above 1.0 would be required to monitor and record specified operating parameters of the final recovery device, or, if there are no recovery devices, at the point where the vent stream is discharged from the reactor to ensure that the TRE is consistently maintained. Operating parameters are established during the initial (or most recent) performance test. Subsequent monitoring of these parameters is done to determine whether their values have deviated from the values measured during the performance test. Depending on what the final recovery device is, the specified operating parameters are condenser exit (product side) operating temperature; absorber liquid temperature; specific gravity (or an alternative measure of absorbing liquid saturation, if approved by the enforcing agency); carbon adsorption bed temperature (after regeneration and

completion of any cooling cycles); and the mass flow rate of carbon bed regeneration steam. The owner or operator would also be required to maintain records of any change in the design or operation of the facility which could affect the TRE index value. Such records would include changes in the production capacity, feedstock type, or catalyst type, as well as the replacement, removal, or addition of recovery equipment. When any such change takes place, the owner or operator of the facility is required to recalculate the TRE index value to document that the facility continues to have a TRE index value above 1.0. Such recalculation can be based on test data reflecting the changes in the system, or best engineering estimates of the effects of the changes. If the recalculated TRE index value for the facility is less than 1.0, the owner or operator shall demonstrate compliance with the 98 weight-percent reduction requirement or 20 ppmv emission limit within 180 days of the process change. Prior notice of any performance testing shall be given to EPA as required by the General Provisions of 40 CFR part 60. Performance testing may also be required on a case-by-case basis by the Administrator following any change to the recovery system in order to verify the TRE index value for the facility.

The standards require that records of the operating parameters discussed above be maintained to ensure the proper operation and maintenance of combustion control equipment and recovery equipment used to reduce VOC emissions. Furthermore, records of instances where these monitored values exceed allowable limitations established during the most recent performance test must be maintained. In addition to maintaining these records, an owner or operator must submit a semiannual report of the recorded exceedances. The requirement of semiannual reporting may be waived for affected facilities in States that have been delegated authority for enforcement provided EPA approves the reporting requirements or alternative means of compliance surveillance adopted by the State and the affected facilities comply with the requirements established by the State. For facilities with TRE index values greater than 4.0, there are no monitoring and reporting requirements unless there is a change to the process operation.

In addition to this promulgated standard, Reference Methods 1A, 2C, and 2D are being promulgated in today's Federal Register.

Summary of Environmental, Energy, and Economic Impacts

The environmental, energy, and economic impacts associated with the standards were projected by using a statistical representation of the industry's vent stream characteristics at existing plants. These characteristics included vent stream flow rate, net heating value, TOC emission rate, and corrosion properties (presence or absence of halogenated compounds). It was assumed that the national distribution of these characteristics for new sources would be the same as the distribution for existing sources. In the determination of these impacts it was assumed that all new, modified, and reconstructed facilities with a TRE index value less than 1.0 would use thermal incineration to meet the 98 weight-percent emission reduction requirement or the 20 ppmv emission limit. Thermal oxidation is the only VOC control technique determined to be universally applicable to all SOCM air oxidation processes.

The actual energy, environmental, and economic impacts associated with the air oxidation NSPS are expected to be less than the impacts estimated here. One reason why these impacts would be lessened is that some facilities would upgrade existing recovery equipment to achieve a TRE index value higher than the cutoff, and, in fact, the standards structured in such a way that encourages this. Such equipment generally has lower associated costs and energy use. Secondly, some facilities would use other combustion devices, such as boilers, or process heaters which may be less expensive to apply and have a lower net energy consumption than incineration. A third reason is that some facilities could use existing devices to control emissions and not have to build new devices. The impacts estimated here assumed that new control devices would be built as a result of the standards. Although these factors contribute to the overstatement of the energy and economic impacts associated with the standards, the degree of overstatement of the impacts cannot be quantified.

Under the standards, it is estimated that 19 percent of all new, modified, or reconstructed air oxidation facilities would have vent streams with TRE index values under the TRE cutoff of 1.0. If all of these facilities were controlled to 98 weight-percent, the projected national VOC emissions from all new, modified and reconstructed air oxidation processes would be reduced by an estimated 10,700 megagrams per year (Mg/yr). This national VOC

reduction would be approximately 46 percent beyond the 23,500 Mg/yr level that would be expected under typical State implementation plans (SIP's).

It is projected that in the absence of the standards, uncontrolled VOC emissions would be reduced an average of 72 percent by State regulations. Seventy-two percent represents a weighted average of the regulations in States where new sources are projected to be built. The actual control required would vary considerably from State to State. Therefore, the impacts for individual plants would vary depending on the State where the affected facility is located.

Any increase in emissions of other air pollutants as a result of controlling VOC emissions would be negligible. There would be no direct solid waste impacts under the standards, and impacts on noise, space requirements, and availability of resources would be negligible.

No significant increase in total plant wastewater is projected under the standard. There is no organic wastewater effluent associated with combustion devices themselves. Some facilities which could have an associated water pollution impact are those which might choose to upgrade or add recovery devices to achieve a TRE index value above the 1.0 cutoff. Carbon adsorption is the only product recovery technique currently in use in the industry which has an associated organic wastewater effluent. Based on available data, only a small percentage of air oxidation chemical manufacturing processes are expected to employ carbon adsorption.

The fifth year energy requirements of the standards would be 0.69 billion megajoules per year (MJ/yr) (320 bbl fuel oil equivalent/day). The projected national energy impacts are considered reasonable.

The fifth year cost impacts of the standards are also considered reasonable. The fifth year national annualized cost for VOC control would be \$8.9 million (\$1978). The fifth year national capital cost for VOC control would be \$14.4 million (\$1978).

An economic analysis indicated that the costs associated with the standards could be passed on with little or no effect on the profitability of the industry. Projections made by employing process-specific assumptions indicate that the standards would not trigger product price increases in excess of 5 percent of the product price. Potential price increases for the 36 chemicals that are currently produced using the air oxidation process, assuming control

costs would be passed through totally and using conservative control cost estimates (high cost projections), would range from 0 to a 3.1 percent increase. Finally, there would be no adverse effects on employment because the standards would not appreciably affect demand for the air oxidation chemicals.

The environmental, energy, and cost impacts are discussed in greater detail in the two BID's for the standards: "Air Oxidation Processes in Synthetic Organic Chemical Manufacturing Industry—Background Information for Proposed Standards" and "Air Oxidation Processes in Synthetic Organic Chemical Manufacturing Industry—Background Information for Promulgated Standards" (EPA-450/3-82-001a and EPA-450/3-82-001b).

Public Participation

Prior to proposal of the standards, interested parties were advised by public notice in the *Federal Register* (46 FR 42910) of a meeting of the National Air Pollution Control Techniques Advisory Committee to discuss the air oxidation VOC standard recommended for proposal. This meeting was held on September 22, 1981. The meeting was open to the public and each attendee was given an opportunity to comment on the standards recommended for proposal. The standards were proposed and published in the *Federal Register* on October 21, 1983 (48 FR 48932). The preamble to the proposed standards discussed the availability of the BID "Air Oxidation Processes in Synthetic Organic Chemical Manufacturing Industry" (EPA-450/3-82-001a) which described in detail the regulatory alternatives considered and the impacts of those alternatives. Public comments were solicited at the time of proposal and, when requested, copies of the BID were distributed to interested parties. The proposal notice stated that a public hearing would be held, if requested, to provide interested persons the opportunity for oral presentation of data, views, or arguments concerning the proposed standards. The public hearing was held on December 1, 1983. One speaker appeared at the public hearing to comment on the proposed standards. The public comment period ended on December 31, 1983.

On May 16, 1985, the public comment period was reopened (50 FR 20446) for the purpose of allowing public comment on the results of a reanalysis of the costing procedures, the TRE equation and coefficients, and the designation of affected facility. The reanalysis resulted from the acquisition of new information

received in public comments and collected since proposal.

Twelve comment letters were received concerning issues relative to the proposed standards of performance for air oxidation processes in the SOCMI. Eleven of these were in response to the proposed publication and one was in response to the reopening of the public comment period. The comments have been carefully considered and, where determined to be appropriate by the Administrator, changes have been made in the standards.

Significant Comments and Changes to the Proposed Standards

Comments on the proposed standards were received from nine chemical companies, one manufacturer of control equipment, and one environmental group. A detailed discussion of these comments and responses can be found in the BID for the promulgated standards which is referred to in the ADDRESSES section of this preamble. The summary of comments and responses in the BID serves as the basis for the revisions which have been made to the standards between proposal and promulgation.

The major comments and responses are summarized in this preamble. The comments have been divided into the following areas: Designation of Affected Facility; Applicability of the Standards; Selection of BDT; Selection of the TRE Cutoff; and Costing Revisions.

All comments discussed here have been entered into Docket Number A-81-22. Access to this docket is described in the ADDRESSES section of this preamble.

Designation of Affected Facility

One commenter objected to the designation of affected facility in the proposed standards. The standards designated the affected facility as the recovery system and all associated air oxidation reactors or each air oxidation reactor that vents directly to the atmosphere. The commenter stated that this designation does not conform to the requirements of the CAA as outlined in *ASARCO v. EPA*, 578 F.2d 319 (D.C. Cir. 1978). The commenter stated that this designation in effect legislates a mechanism that may enable certain facilities to avoid the reconstruction and modification provisions of the standards. As an example, the commenter indicated that if an existing facility consists of a single reactor, any changes in that reactor which would result in cumulative costs of over 50 percent of the capital cost of a new reactor would make it an affected facility. However, if two or more reactors are joined in an existing

facility, similar changes in one reactor may not make that facility subject to the standards because the capital costs are not likely to exceed 50 percent of the capital cost of the entire facility (both reactors and the associated recovery system). Thus, the commenter concluded that under the Agency's proposed designation the changed reactor may go unaffected by the standards. The commenter recommended that the designation be changed to each individual reactor and its associated recovery system to ensure that the standards achieve the maximum possible VOC emission reductions.

The Agency has reviewed the commenter's recommended affected facility designation and has found it to be inappropriate for use in these standards. The choice of the affected facility for these standards is based on the Agency's interpretation of section 111 of the CAA and on the judicial construction of its meaning (*ASARCO v. EPA*, 578 F.2d 319 (D.C. Cir. 1978)). Under section 111, the standards of performance for new stationary sources must apply to "new sources." "Source" is defined as "any building, structure, facility, or installation which emits or may emit any air pollutant" (section 111(a)(3)). Most industrial plants, however, consist of numerous pieces or groups of equipment that emit air pollutants and that may be viewed as "sources." The Agency, therefore, uses the term "affected facility" to designate the equipment within a particular kind of plant that is chosen as the "source" covered by a given standard.

As the commenter notes, the Court in *ASARCO* discussed the scope of EPA's discretion in choosing the affected facility. The Court stated:

The EPA's definition of a "facility", which this court accepts, is "any apparatus to which a standard of performance is specifically applicable." [Citation omitted.] This definition is clearly designed to designate as "facilities" those units of equipment—be they individual machines, combinations of machines, or even entire plants—that the Agency finds to be appropriate units for separate emission standards. A cursory review of EPA's regulations indicates that the units designated as "facilities" under this definition are usually larger than individual machines or single pieces of equipment, and are sometimes whole plants. [Citation omitted.] In designating what will constitute a facility in each particular industrial context, EPA is guided by a reasoned application of the terms of the statute it is charged to enforce, not by an abstract "dictionary" definition. This court would not remove this appropriate exercise of the Agency's discretion. [Citation omitted.] 578 F.2d at 324 n. 17.

Consistent with this statement, EPA has selected the affected facility in the air oxidation standards by looking at the terms and purposes of section 111, as well as the characteristics of air oxidation plants. As EPA stated at proposal, the main purpose of section 111 is to minimize emissions by requiring the application of BDT at all new, modified, and reconstructed sources (considering cost, nonair quality health and environmental effects, and energy impacts). The EPA believes that in most cases a narrow affected facility designation will best further this purpose, because in most cases a narrow designation ensures that all new emission units will be brought under the coverage of the standards. If, for example, an entire plant is designated as the affected facility, no part of the plant would be covered by the standard unless a replacement caused the plant as a whole to be "modified" or "reconstructed." If each piece of equipment is designated as a separate affected facility, then as each piece is replaced, the replacement piece would be a new source subject to the standards. For this reason, EPA generally presumes that the narrow designation is appropriate.

The EPA treats the narrow designation only as a presumption, however, because in some cases a broader affected facility designation may be more consistent with the purposes of section 111. For example, the Agency might choose a broader designation if it concludes that either: (a) It would result in greater emissions reduction than would a narrow designation; or (b) the other relevant statutory factors (technical feasibility, energy, cost, and nonair quality health and environmental impacts) point to a broader designation.

The EPA analyzed several alternative affected facility designations for the air oxidation standards, including: (1) Each individual reactor with its recovery system, (2) the group of reactors whose vent streams are ducted together through a single recovery system, and (3) the entire plant. Using the presumption mentioned above, EPA examined as a single affected facility each individual reactor whose vent stream is sent to its own recovery system. The EPA concluded, however, that when reactor vent streams are joined and sent through a single recovery system the group of reactors and their recovery system, rather than each reactor, should be a single affected facility.

The EPA estimates a greater reduction in national VOC emissions using the

broad designation of affected facility. Greater reduction in emissions will occur with the broader designation because for facilities where the TRE index is less than 1.0, emissions from existing air oxidation reactors will also be controlled when new reactors are combined with existing reactors sharing a common recovery system. Under a narrow designation, when a new reactor is combined with existing reactors, the new reactor is treated separately. Thus, only emissions from the new reactor could potentially be controlled.

The commenter did not comment on this reasoning. Instead, the commenter contended that when more than one reactor is vented to the same recovery device, EPA's designation will permit reactor replacements to avoid coverage under the standards and will therefore result in less emission reduction than would occur if the commenter's affected facility designation were used. The EPA disagrees with the commenter's analysis and conclusion. The replacement of air oxidation reactors or pieces of recovery equipment is rare within the industry. This is because reactors are expensive pieces of equipment which are designed to last a long time. Moreover, the Agency has concluded that those few replacements which do occur often result from process changes (e.g., from chlorination to hydrochlorination) or catastrophic events that would probably require replacement of most of the group of reactors joined to a single recovery system. These changes would likely amount to a "reconstruction" of the facility as it is defined in these standards. Thus, in the small percentage of cases where reactor replacements occur, the facility would most likely fall under the coverage of the standards.

Furthermore, as EPA stated at proposal, the other types of reactor changes that source owners would most likely consider are substantial changes in catalysts, reactor conditions, or product separation purification equipment. The cost of these changes is so great, however, that most owners would choose to build new groups of reactors rather than radically modify individual existing reactors. Thus, few air oxidation reactors would undergo process changes that would subject them to the standards under either the commenter's or EPA's designation. Moreover, under EPA's designation, in the event an owner added a reactor to an existing group of reactors ducted to the same recovery system, it is unlikely the facility could avoid being considered a modification by offsetting the new reactor emissions somewhere else within the reactor group. This is because

it would likely be technologically infeasible to reduce emissions sufficiently or at all from the other reactors. Although some VOC reductions could occur through upgrading recovery equipment, it is unlikely that this reduction would result in a full offset of the new reactor emissions because the increased load on the recovery device (i.e., increased flow and VOC) would make the needed increase in VOC removal efficiency difficult to achieve. Thus, the likely result is that addition of a reactor to a group of joined reactors would bring the entire set under the coverage of the standards as a modified facility.

In short, the broad evasion of the modification and reconstruction provisions that might generally occur under broad affected facility designations would not occur under EPA's designation for the air oxidation standards. As discussed above, under EPA's designation, the inability of owners to offset emissions from new reactors added to a set of existing reactors would likely cause the entire set of new and existing reactors to come under the standards as a modified facility. This results in a greater emission reduction potential than would be the case for these reactors under a narrow designation. For these reasons, EPA disagrees with the commenter's premise that the affected facility designation in these standards would result in foregone emission reductions and would, therefore, be inconsistent with section 111. Rather, EPA's selection of the affected facility represents a reasoned application of section 111, consistent with ASARCO, because it couples consideration of both the need to secure the greatest emissions reductions from new and modified emission units with the technological realities of the air oxidation process.

An incidental effect of selecting the broader designation of affected facility is that implementation of the standards would be made significantly easier. When several reactors feed process vent streams into a common recovery system, the characteristics of the emissions vented into the atmosphere from the recovery system are determined by both the process vent streams from each of the reactors and the efficiency of the recovery system. Determining accurately the contribution of each individual reactor to these emissions (i.e., each reactor's TRE index value) can be complex and, therefore, costly. It requires a mass balance calculation using three sampling sites: two which are located upstream and downstream

of the recovery system and one located just downstream of the reactor.

Under the broader designation EPA is promulgating, however, only one sampling site located after the last recovery device is needed to yield an accurate determination of the facility's TRE index value. No estimation of the recovery device efficiency on individual reactors is required, because the standards cover the entire vent stream. Therefore there is no need to determine which portion of the final vent stream from a group of reactors is attributable to new, modified, and reconstructed reactors and which portion is attributable to reactors that have not been changed or added. This results in a decrease in both the cost and complexity of performance testing because fewer sampling sites and a simpler analysis are needed.

Applicability of the Standards

Four commenters requested clarification on the applicability of the standards. These commenters indicated that the standards are not explicitly limited to air oxidation processes in the SOCMI. Further, the commenters stated that, consequently, the standards could be interpreted as applying to air oxidation reactors in other industries, such as asphalt roofing, kraft pulp mills, and fertilizer plants. The commenters recommended that the applicability provisions of the regulation be amended to specify that the standards are applicable only to air oxidation processes used in the manufacture of certain listed chemicals.

Upon considering this comment, the Agency decided to clarify the applicability of the standards by adding a list of affected SOCMI air oxidation chemicals to the regulation. Based on information available to the Agency, this list includes all SOCMI air oxidation chemicals produced and; thus, the list includes all chemicals and processes intended to be covered under these standards. The list is contained in § 60.617 and consists of the 36 chemicals identified in the BID as being entirely or partially produced by air oxidation processes. To accommodate this change § 60.610(a) of the regulation has been amended to limit the coverage of the standards to air oxidation processes that are used to produce one of the listed chemicals.

Selection of BDT

Several commenters objected to the Agency's selection of BDT. The objections raised by the commenters focused on two main areas. First, two commenters implied that the 98 percent

emission reduction specified in the regulation should be lowered to allow for the use of catalytic oxidation. These commenters stated that catalytic oxidation could achieve VOC destruction efficiencies comparable to those achievable by thermal incineration. One commenter stated that it would be necessary to add a thermal incinerator after the catalytic oxidizer in order to comply with the standards. Another commenter mentioned that compared to catalytic oxidation, the slightly higher efficiency typical of thermal incineration would not result in a measurable improvement in the environment. The commenter added that the use of thermal incineration instead of catalytic oxidation could possibly entail detrimental effects such as increased NO_x emission, energy use, cost, and domestic chemical prices relative to foreign chemical prices. A second concern related to one commenter's perception that technologies which involve lower costs and energy requirements than thermal incineration be evaluated for application to facilities which have too high a cost per megagram of VOC destroyed (i.e., over \$1,900/Mg). The commenter suggested that recovery devices and combustion devices such as catalytic oxidation be evaluated for such applications. It was pointed out that although the emission reduction capabilities of recovery devices are not as great as combustion, further emissions reductions could be achieved using these relatively low cost devices.

The Agency evaluated the commenters' concerns and has decided to make no changes in the emission reduction requirements of the standards. The standards do not prohibit the application of any devices, including catalytic oxidizers, which are used to comply with the emission reduction requirements and/or emission limits. The Agency believes, based on available data, the catalytic oxidizers are capable of achieving 98 weight-percent destruction efficiency in all cases where they are applicable. Since both thermal incinerators and catalytic oxidizers can meet the 98 weight-percent reduction or 20 ppmv limit, the owner or operator has the flexibility to choose the device which he believes is best for the facility in terms of cost or other technical considerations.

Catalytic oxidizers do not, however, necessarily have the advantages over thermal incinerators named by the commenters. Because of the potential for greater heat recovery associated with recuperative heat exchangers used in conjunction with thermal incinerators,

thermal incinerators may in many cases be less expensive and use less energy than catalytic oxidation units. This has to be examined on a case-by-case basis by owners or operators with facilities which can use catalytic oxidation. For these reasons, catalytic oxidation does not necessarily have an advantage over thermal incineration in terms of price impacts or competitive position of domestic producers relative to foreign competition, as suggested by the commenters. The potential impacts of domestic price increases associated with thermal incineration were investigated and are not considered to be large enough to significantly affect the competitive position of domestic producers relative to foreign competition. Using conservative (high) control cost estimates, chemical price increases are estimated to range from 0 to about 3 percent. Further, the potential for increased NO_x emissions associated with thermal incineration was also examined, but the rate of NO_x formation is estimated to be low due the relatively low combustion temperatures and relatively short residence times.

With respect to the second major concern raised by one commenter, the Agency maintains that it is appropriate to not require additional control for facilities with control costs per unit of VOC removed greater than \$1,900/Mg. It was determined to be infeasible to consider catalytic oxidizers and recovery devices (e.g., adsorbers, absorbers, and condensers) for application to individual facilities with cost-effectiveness values above the cutoff. These devices were not considered because the Agency was unable to identify subcategories for which a particular control device would apply in all cases. The applicability and effectiveness of these devices may be greatly affected by the vent stream flow rate, water content, temperature, VOC concentration, and VOC properties such as solubility, molecular weight, and liquid/vapor equilibrium. Since these characteristics vary widely within the air oxidation industry, it is not possible with available information and resources to identify categories or subcategories of air oxidation processes for which these devices would always apply and to specify control efficiencies under an industry-wide standards development approach. Therefore, application of these devices in analyzing regulatory options is not feasible. Even with greater resources, this analysis would be infeasible because it would require a stream-by-stream characterization, ultimately resulting in the need to create a separate standard

for each process used to produce a listed chemical. The number of standards required to regulate the same number of sources would increase significantly. The Agency believes that such an approach to regulating the air oxidation industry would be administratively infeasible and, therefore, environmentally counterproductive. In any event, as the commenter recognizes, proceeding now with this generic regulation based on thermal incineration at least represents an important first step in regulating air oxidation emissions and does not preclude later regulation of subcategories of air oxidation facilities should that become feasible. The EPA believes it has the authority to take this step-by-step approach under section 111. See, e.g., *Group Against Smog and Pollution v. EPA*, 665 F.2d (D.C. Cir. 1981).

Selection of the TRE Cutoff

Three commenters indicated that the \$1,900/Mg (1978\$) cost-effectiveness cutoff is unreasonable. One commenter recommended that the cutoff be raised to a level higher than \$1,900/Mg so that the standards cover a greater number of emission sources and, thus, a greater amount of emissions. This recommendation is based on the commenter's perception that the inclusion of a greater number of sources would reduce public exposure to pollutants emitted by air oxidation reactors, including potentially hazardous pollutants. This commenter also stated that cost effectiveness is inappropriate as the sole determinant for excluding certain air oxidation reactors from the application of the proposed standards. The commenter stated that cost effectiveness is an invalid basis for deciding not to set standards on processes for which no perceptible economic impacts have been shown. Two commenters stated that the cost-effectiveness cutoff should be reduced to a lower level which is more typical of VOC standards. Both commenters stated that the Agency has not presented adequate justification for concluding that a \$1,900/Mg cost-effectiveness cutoff is a reasonable upper limit for application of the standards. Specifically, these commenters assert that this higher figure cannot be justified based on the presence of toxic constituents in the discharge streams from air oxidation reactors. They point out that the control of toxic pollutants is the objective of standards developed under section 112 of the CAA (national emission standards for hazardous air pollutants (NESHAP)) and not standards such as

these which are being proposed pursuant to section 111 of the Act (NSPS). The first commenter stated that the Agency: (1) Has not presented data which quantify the presence of toxic pollutants in the emissions from air oxidation processes, (2) has made no effort to correlate the costs of control with the degree to which toxic pollutants are eliminated, and (3) has not shown that toxic pollutants will be controlled to the same degree as other pollutants under the proposed standards. The second commenter contended that the preamble does not adequately demonstrate that the presence of toxic pollutants in the emissions from air oxidation reactors are sufficiently different from the emissions from other VOC sources to justify a special consideration of their hazards. Both commenters also state that although the cost of controlling VOC emissions is analyzed as a "worst-case" situation, there are facilities which will have to incur costs as high as \$1,900/Mg. They contend that the Agency has not justified costs this high as being either reasonable or appropriate for these facilities.

The EPA believes that its decision to consider cost effectiveness as one indication of cost when determining the cutoff for applying the standards reflects a reasonable interpretation of section 111 of the CAA. In analyzing the question whether the consideration of cost effectiveness is appropriate, EPA looked to see whether Congress had "directly spoken to the precise question." *Chevron, U.S.A., Inc. v. NRDC*, 467 U.S. 837, 104 S.Ct. 2778, 2782 (1984). Section 111 requires EPA to promulgate NSPS limiting emissions to the level that reflects the best system of emission reduction "which (taking into consideration the cost of achieving such emission reduction, any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated." Section 111(a)(1). Nothing in either section 111 or elsewhere in the Act defines "the cost of achieving such emission reduction." The plain meaning of the phrase, however, is quite broad. This indicates that Congress implicitly delegated to EPA the authority to interpret the phrase to encompass a range of impacts, including costs of control in relation to the emission reduction achieved. Further, Congress did not specify any particular manner in which EPA was to take these costs "into consideration." Thus, absent a clear Congressional direction to the contrary discernible from the Act's history, *Chevron*, 104 S.Ct. at 2783,

section 111 gives EPA authority to reject NSPS control options on the ground that their costs are unreasonably high in light of the emission reductions they achieve.

The EPA has reviewed the legislative history of Section 111 and concluded that no contrary intent is discernible. Most important, the history contains no express repudiation of the use of cost effectiveness as one mechanism in considering cost when setting an NSPS.

For these reasons, EPA believes that Congress implicitly delegated the Agency the authority to decide how best to "take into consideration * * * cost" in setting NSPS and, if the Agency concluded it was appropriate, to consider cost effectiveness.

Further, in *Portland Cement Association v. Train*, 513 F.2d 506, 508 (D.C. Cir. 1975), *cert. denied*, 416 U.S. 1025 (1975) ("Portland II"), the Court stated that EPA may reject control options that result in a "gross disproportion between achievable reduction in emissions and cost of the control technique." Since the purpose of cost effectiveness analysis is to highlight such disproportion, this passage supports EPA's approach.

In selecting cutoffs related to applicability of NSPS, EPA looks at a variety of factors including: (1) The technical feasibility of additional control; (2) the economic feasibility associated with different control alternatives; (3) the magnitude of emission reductions associated with a control alternative (e.g., a slightly higher cutoff could be selected if it led to a substantial increase in the emission reduction achieved by the NSPS); (4) the cost effectiveness (C/E) of the control alternative in terms of annual cost per megagram (\$/Mg) of emissions reduced; (5) the quality of the cost estimates (e.g., worst case versus realistic estimates); (6) potential reductions in other air pollutants not specifically regulated by the NSPS resulting from a control alternative; and (7) the location of the sources (e.g., urban versus rural). Because these factors vary from industry to industry and, in some cases, within the same industry, decisions on the appropriate level of control are made on a category by category basis.

In evaluating the above factors, EPA found that the following considerations were key to the selection of the appropriate cutoff for SO₂ air oxidation processes: (1) The cost effectiveness of NSPS for VOC emissions previously promulgated by EPA; (2) the fact that air oxidation vent streams contain compounds that are considered potentially toxic by EPA and that many of the facilities are located in

urban areas; and (3) the likelihood that these maximum costs will not be incurred by industry.

A survey of the VOC standards for other source categories shows that the cost effectiveness of those control requirements has sometimes ranged as high as \$2,000/Mg. (See Docket Item No. IV-B-14.) The Agency's experience in implementing these standards reveals that NSPS requiring this level of control have proved a useful tool in bringing about the installation of much emissions control technology, significant reductions in emissions, and corresponding improvements in air quality, yet have not imposed costs that appear "grossly disproportionate" to the emission reduction achieved. *Portland II*, 513 F.2d at 508. Such an approach simply makes this NSPS consistent (as to dollars spent per metric ton of VOC removed) with the existing body of NSPS regulations, all of which have either been promulgated without legal challenge or have been judicially upheld.

EPA also considered evidence that air oxidation streams include compounds that may be toxic.¹ Although that evidence has not yet resulted in a determination that those compounds should be listed as hazardous under section 112, EPA considered this potential toxicity along with other relevant factors when choosing the cutoff. As stated in EPA's Air Toxics Strategy published in July 1985, the Agency will consider the likely toxic pollutant control benefits in the course of carrying out its responsibilities under section 111. This strategy reduces emissions of potentially toxic compounds from new sources and from industries as their facilities are reconstructed or modified. This approach achieves significant reductions in these compounds of concern while the Agency evaluates them for regulation under section 112. The Agency disagrees with the argument that EPA has no authority to do this. The EPA is not attempting here to regulate streams based on a decision that they contain hazardous air pollutants within the meaning of section 112. Rather, the Agency is simply considering all available evidence within the

¹ The Agency has adequately documented that this is the case. (See Wehrum, W. et al., "Air Toxics Emission Patterns and Trends," Docket Item No. IV-A-3, and Registry of Toxic Effects of Chemical Substances, Docket Item No. IV-J-9.) Moreover, it is apparent that combustion of those streams will reduce those compounds proportionately. (See, e.g., "Thermal Incinerator Performance for NSPS," Docket Item No. II-B-3.) The Agency received no comment questioning this documentation.

framework of section 111. Section 111 does not attempt to restrict EPA's discretion to consider all relevant factors in making that decision, and certainly the potential toxicity of a stream is relevant to the control requirement selected. Many SOCM facilities are located in urban areas and, as a result, many people will be exposed to any hazardous air pollutants emitted from these facilities.

A third consideration in setting the cutoff at \$1,900/Mg is the likelihood that no facility will actually have to incur the costs implied by that cutoff. The reasons are: (a) Less expensive control systems may be used, thus reducing the costs and cost effectiveness incurred by individual facilities; (b) the cost estimates for thermal incinerators and natural gas prices are overstated; and (c) the inherent flexibility within the regulation encourages the use of product recovery modifications that will significantly reduce the cost incurred by individual facilities that may have otherwise had to add a combustion device. The regulatory analysis assumes that each air oxidation process vent would have its own combustion device and would need separate ducting and support structures. It is expected, however, that some air oxidation processes will share control systems with other process vents. The analysis also assumes that thermal incinerators or flares will be used to reduce VOC emissions by 98 weight-percent. Data on current capital costs of thermal incinerators indicate that units are now available at substantially reduced costs compared to the costs used in developing these standards. Lower capital costs would reduce the annualized costs estimates, also, but not as significantly. This is an important consideration in selecting the appropriate cost-effectiveness cutoff. Another consideration is the fact that natural gas prices used to calculate the cost effectiveness for each stream are overstated by about 40 percent, even though they were updated after proposal (see following section on "Costing Revisions"). These conservative assumptions have resulted in higher cost and cost-effectiveness estimates than will actually occur. Finally, the standard encourages pollution prevention by not requiring 98 weight-percent reduction if a TRE index greater than 1.0 is maintained. The EPA believes that many facilities having a TRE index just below the 1.0 cutoff (equivalent to \$1,900/Mg) will upgrade product recovery to reduce VOC and raise their TRE index above 1.0. This will significantly reduce the cost of control incurred by the industry

while reducing emissions and will also minimize the national energy impacts. A preliminary examination of the national statistical profile shows that because many facilities have the potential to reduce VOC emissions sufficiently to raise their TRE values above 1.0, the highest cost effectiveness that a facility will actually incur as a result of installing a combustion device is estimated to be approximately \$1,400/Mg.

The EPA believes that this process reflects a reasoned interpretation of the phrase "taking into consideration the cost of achieving such emission reduction," especially given the lack of clear Congressional guidance. The commenters' arguments that EPA should have selected either a higher cutoff to provide for a greater degree of protection of the public health, or a lower cutoff because most VOC standards have lower costs in relation to the resulting emission reduction, fail to provide a more reasoned methodology for selecting the appropriate level. Instead, they merely reflected each of the competing goals reflected in section 111's history, as described above.

Consideration of all of the above factors confirmed EPA's belief that a TRE value of 1.0 (i.e., \$1,900/Mg) represents an appropriate cutoff for determining which facilities must reduce VOC emissions by 98 weight-percent or to 20 ppmv. The cutoff is specific to the SOCM air oxidation processes source category and would not necessarily be appropriate for other source categories; therefore, it should not be viewed as a benchmark for other standards.

Costing Revisions

Several commenters indicated that several oversights and flawed assumptions exist in the cost estimation procedure. The commenters mentioned that the following capital cost items were either ignored or treated inadequately in the costing procedures: Ductwork length between the emission source and the incinerator, siting, bringing utilities to the site, and piping and instrumentation connections. In addition, both commenters mentioned that the following operating costs were ignored: maintenance-related labor costs, operating supplies, and laboratory costs. The commenters requested that the cost estimation procedure contain factors to account for these capital and operating cost items.

In response to these statements claiming that the costing procedures contain flawed assumptions, the Agency reviewed the procedures in great detail. Revisions were made where determined

to be appropriate for ensuring that the costing procedures result in representative costs. Throughout the development of the air oxidation NSPS, the Agency has made efforts to ensure that the costing procedures result in estimates that adequately represent control costs anticipated to be incurred by the majority of facilities in the industry. Prior to proposal, industry members were given the opportunity to provide substantial input into the development of the costing procedures. Preliminary costing assumptions were reviewed by industry and subsequently revised based upon industry input. After proposal, costing assumption revisions were prepared and presented in a supplemental Federal Register notice (50 FR 20446) on May 16, 1985. This notice solicited further comments on costing procedures. The bases for these revisions are documented in Docket Item No. IV-B-8. As a result of the initial industry involvement and the recent revisions based on industry public comments, the Agency feels confident that the costing procedures result in accurate estimates for typical air oxidation facilities. The specific assumptions that are key for ensuring representative cost estimates are discussed below.

Certain assumptions were included in the procedures to avoid underestimating costs incurred by facilities using combustion to control VOC. These assumptions were made to ensure that control equipment sizes and supplemental gas requirements were not underestimated. First, vent streams were assumed to contain no oxygen to maximize estimated combustion air requirements. Most streams, while not containing 21 percent oxygen, have some smaller percentage of oxygen present. The assumption of no oxygen ensures that no underestimate will occur for the equipment size, the combustion air flow rate, and the amount of supplemental natural gas needed. Second, actual offgas flow rate was increased by 5 percent in calculating costs, which inflated gas consumption and equipment size by 5 percent. Third, the temperatures and residence times assumed for cost estimation purposes (1,600 °F/75 sec for non-halogenated streams, 2,000 °F/1 sec for halogenated streams) are the highest temperature and residence time conditions generally necessary to achieve a 98 percent VOC destruction efficiency, as discussed in appendix A of the proposal BID. These higher temperatures and residence times would result in a larger equipment size and higher gas consumption than the majority of air oxidation facilities

require. Fourth, the overall installation factors assumed for new sources were 4.0, 2.5, and 3.5 for the combustion chamber, heat exchanger, and waste heat boiler, respectively. These factors were all higher than the EPA GARD Manual recommended factor of 2.17 (EPA-450/5-80-002) because they incorporate contingencies recommended by industry representatives to account for equipment that was not originally specified in the costing procedures.

Revisions were made where appropriate in the capital cost and the annual operating cost assumptions used in the procedures. For example, in the capital cost component of the procedures, the ductwork length was changed from 150 feet to 300 feet. The ductwork length increase is based on specifications provided by the Industrial Risk Insurers (IRI) and the National Fire Protection Association (NFPA). These organizations present recommended distances for safely locating combustion sources from process units in chemical plants. The recommended distance for locating a closed combustion source such as an incinerator from a process unit is 200 feet. An additional 100 feet was added to the IRI and NFPA recommendation to account for routing the stream around process equipment before routing it away from the process unit. The 300-foot figure is believed to be more representative of industry conditions and is within the range recommended by the commenter.

In addition to the ductwork length change, the capital cost component of the procedures also was modified to include 250 feet of pipe rack. The Agency judged that since the standards will probably require the use of new rather than existing incinerators and since newly constructed incinerators would require about 300 feet of ductwork, it is reasonable to assume that existing structures may not be available to support the piping. However, the 250 feet of pipe rack assumes that 50 feet of the 300 feet of ductwork would be supported by existing structures.

Several revisions were also made in the annual operating cost component of the procedures. These were revisions in the labor rate, in the calculation of total labor cost, and in the gas and electricity prices used. All these annual operating cost revisions were discussed below and are explained in more detail in a memorandum to the SOCOMI air oxidation NSPS files (Docket Item No. IV-B-8). The labor rate was changed to reflect more accurately the actual value for 1978. The original incinerator labor costing was based on a labor rate

(including overhead) in 1979 dollars that was deescalated to 1978 dollars. The new labor rate is based on actual U.S. Bureau of Labor Statistics for 1978 and does not include overhead and fringe benefits.

The revisions in the calculation of total labor cost were made to calculate explicitly the cost attributable to overhead and fringe benefits. The overall changes in the total labor cost calculation included: (1) Calculation of the supervisory labor cost as 15 percent of the operating labor cost; (2) calculation of the overhead cost as 80 percent of the sum of operating, supervisory, and maintenance labor costs; and (3) calculation of total labor cost as the sum of operating, supervisory, maintenance, and overhead labor costs.

The natural gas price used in the costing procedures was revised to represent more accurately the projected effects of natural gas deregulation and account for regional variations in gas price. The previous estimate of natural gas was based on prices projected through the first 5 years of the regulation and then was deflated to 1978 dollars. This was done to reflect the fact that gas prices have been rising more rapidly than inflation. The previous estimate was made during a period of rapidly increasing energy prices. However, the actual rate of increase has slowed since that original estimate was made. Thus, to improve the accuracy and representativeness of the gas price, a new projection was made. The gas price was derived by projecting regional gas prices to 1990, taking a nationwide 1990 gas price that was weighted geographically, and then deflating to 1978 dollars. Since that projection was made, the rate of increase continued to slow. Therefore, the revised gas price is still overstated but is more realistic than the original estimate.

The price for electricity was modified to provide for a more accurate estimate of 1978 costs. Although the electricity was originally based on 1978 costs, further examination showed that a more representative price could be used.

Several of the commenters' suggestions were not incorporated in the procedures because they were not justified. The recommended capital cost items that were judged to be inappropriate included the costs for siting, bringing utilities to the site, and piping and instrumentation connections. The cost associated with bringing utilities to the site was not included because the control device will be located in the proximity of the process units where utilities are readily

accessible. It was not necessary to include the cost for siting because this has already been included. An equipment cost installation factor of 1.35, which increased equipment purchase price by 35 percent, was used to account for site development, fees, and general contingencies. Neither was it necessary to include the cost associated with piping and instrumentation connections, because these were already incorporated. An equipment cost installation factor of 1.20 was used to increase the equipment purchase price by 20 percent to account for unspecified equipment. Also, an overall correction factor of 1.33 was used to increase equipment purchase price by 33 percent to account for any miscellaneous items associated with purchasing and installing control equipment that may have been overlooked.

Some annual operating cost items recommended by the commenters were also judged to be inappropriate. The items identified by the commenters included maintenance-related labor costs, operating supplies, and laboratory costs. It was not necessary to include maintenance-related labor costs because these are already incorporated in the maintenance labor factor, which is calculated as 3 percent of the total installed capital cost. Similarly, the cost associated with operating supplies was not a missing item but was already incorporated in the maintenance materials factor, which is calculated as 3 percent of the installed capital cost. Finally, it was determined that laboratory expenses, such as those involved with testing scrubbing wastewater effluent, are part of the normal operating and maintenance cost for an incinerator/scrubber system that would be used to control vent streams with halogenated compounds. Thus, factors for maintenance labor and maintenance materials associated with such a system would incorporate laboratory expenses.

In summary, the revised costing procedures do not result in annualized costs that are significantly different from the costs estimated using the procedures at proposal. An examination of the data showed that depending on the vent stream characteristics of a facility, the annualized cost increased for some facilities and decreased for others. For the most common type of air oxidation vent stream (Category B—nonhalogenated stream with net heating value below 0.48 MJ/m³), the annualized cost increased by about 3 percent.

Paperwork Reduction Act

The reporting and recordkeeping requirements of the regulation are assessed in Standard Form 83 and an accompanying supporting statement which are included in Docket Item No. IV-H-1 for public review. This documentation contains: (1) A description of the reporting and recordkeeping required by the regulation and the 40 CFR part 60 General Provisions, (2) the reasons for the requirements, (3) and evaluation of the major alternatives considered (including the use of existing sources of information), and (4) an estimate of the labor-hour burden of the requirements.

The General Provisions of 40 CFR part 60 and the standards would require three types of reports: (1) Notification requirements which enable the Agency to keep abreast of facilities subject to the standards, (2) reporting of initial performance test results and continuous monitoring system performance evaluations, and (3) semiannual reporting of exceedances or deviations from the monitored parameters from recovery of combustion control devices. Analysis of these reporting requirements (Docket Item No. IV-H-1) indicates that they are both necessary and reasonable considering the savings in Agency time and resources required for effective enforcement.

The resources needed by the industry to maintain records and to prepare the reports for the first 3 years average about 3.5 person-years per year. The resources required by EPA and State and local agencies to process the reports and to maintain records for the first 3 years would average about 0.2 person-years per year.

Information collection requirements associated with this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, and have been assigned OMB control number 2060-0053.

Public reporting burden for this collection of information is estimated to be 7,150 hours per year, with an average of 715 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Information Policy Branch, PM-223, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460; and

to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

There are no reporting requirements by other governmental agencies for the information required by these standards which would result in overlapping requirements. In particular, there is no overlap with the reporting requirements of the Superfund program. The Superfund program was established in 1980 by the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, Pub. L. 96-510) and authorizes the Federal government to respond directly to releases (or threatened releases) of hazardous substances and pollutants or contaminants to any media that may endanger public health or welfare. Under the notification and liability provisions of section 103 (see 48 FR 23552, May 25, 1983), CERCLA requires that persons in charge of vessels or facilities from which hazardous substances have been released in quantities that are equal to or greater than the reportable quantities immediately notify the National Response Center (NRC) of the release (800-424-6802; in Washington, DC, metropolitan area 202-426-2675). However, air releases which qualify as Federally permitted releases, such as VOC emissions that are regulated under section 111 of the CAA, are not subject to the notification or liability provisions of CERCLA unless the air releases are in excess of the allowable NSPS emissions by an amount equal to or greater than the reportable quantity; in this case, persons in charge must report the excess air release to the NRC. (Reporting under CERCLA does not excuse the persons in charge from any responsibility, including reporting, or liability under the NSPS program.)

Docket

The docket is an organized and complete file of all the information considered by EPA in the development of this rulemaking. The docket is a dynamic file, since material is added throughout the rulemaking development. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can intelligently and effectively participate in the rulemaking process. Along with the statement of basis and purpose of the proposed and promulgated standards and EPA responses to significant comments, the contents of the docket will serve as the record in

case of judicial review (except as noted in section 307(d)(7)(A)).

Miscellaneous

The effective date of this regulation is June 29, 1990. Section 111 of the CAA provides that standards of performance or revisions thereof become effective upon promulgation and apply to affected facilities, construction, reconstruction, or modification of which commenced after October 21, 1983.

As prescribed by section 111, the promulgation of these standards was preceded by the Administrator's determination (40 CFR 60.16, 44 FR 49222, dated August 21, 1979) that these sources contribute significantly to air pollution which may reasonably be anticipated to endanger public health or welfare. In accordance with section 117 of the Act, publication of these promulgated standards was preceded by consultation with appropriate advisory committees, independent experts, and Federal departments and agencies.

This regulation will be reviewed 4 years from the date of promulgation as required by the CAA. This review will include an assessment of such factors as the need for integration with other programs, the existence of alternative methods, enforceability, improvements in emission control technology, and reporting requirements.

Section 317 of the CAA requires the Administrator to prepare an economic impact assessment for any NSPS under section 111(b) of the Act. An economic impact assessment was prepared for this regulation and for other regulatory alternatives. All aspects of the assessment were considered in the formulation of the standards to ensure that cost was carefully considered in determining BDT. The economic impact assessment is included in the BID for the proposed standards (EPA-450/3-82-001a).

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because: (1) The national annualized compliance costs, including capital charges resulting from the standards total less than \$100 million; (2) the standards do not cause a major increase in prices or production costs; and (3) the standards do not cause significant adverse effects on domestic competition, employment, investment, productivity, innovation or competition in foreign markets. This regulation was submitted to OMB for review as required by Executive Order 12291. Any written communication between OMB and EPA

pertaining to the standards has been put in the docket (A-81-22).

Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980 requires that adverse effects of all Federal regulations upon small businesses be identified. According to current Small Business Administration guidelines, a small business in the air oxidation industry is one that has 1,000 employees or less. Currently only 4 percent of existing air oxidation companies (three companies) employ less than 1,000 people. No new, modified, or reconstructed small air oxidation facilities will be adversely affected by the standards. This conclusion is based on the fact that in doing the economic analysis for this standard, the price increase and profitability impacts have been estimated from the perspective of the smaller air oxidation facilities in operation. The findings of this analysis that producers of air oxidation chemicals, under a worst-case scenario, would be able to pass through NSPS compliance costs to their customers while keeping the price increase of their product under 5 percent accurately reflects the impacts for small air oxidation companies.

The economies of scale that exist in this industry hinder the entrance of small businesses. Furthermore, if a company has the capital available to enter the industry, the NSPS will require only a small percentage increase in the capital required for the project.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 60

Air pollution control, Incorporation by reference, SOCMCI air oxidation processes.

Dated: June 1, 1990.

William K. Reilly,
Administrator.

PART 60—[AMENDED]

40 CFR part 60 is amended as follows:

1. The authority citation for part 60 continues to read as follows:

Authority: Secs. 101, 111, 114, 116, and 301 of the Clean Air Act (CAA) as amended (42 U.S.C. 7401, 7411, 7414, 7416, 7601).

2. Section 60.17 is amended by revising (a)(6) and (a)(38), removing (a)(46), and redesignating (a)(47) through (a)(55) as (a)(46) through (a)(54) to read as follows:

§ 60.17 Incorporation by reference.

* * *

(a) * * *
(6) ASTM D1946-77, Standard Method for Analysis of Reformed Gas by Gas Chromatography, IBR approved for §§ 60.45(f)(5)(i), 60.18(f), 60.614(d)(2)(ii), 60.614(d)(4).

* * *

(38) ASTM D2382-76, Heat of Combustion of Hydrocarbon Fuels by Bomb Calorimeter [High-Precision Method], IBR approved for § 60.18(f), 60.485(g), 60.614(d)(4).

* * *

3. By adding subpart III to read as follows:

Subpart III—Standards of Performance for Volatile Organic Compound Emissions From the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes

Sec.

- 60.610 Applicability and designation of affected facility.
- 60.611 Definitions.
- 60.612 Standards.
- 60.613 Monitoring of emissions and operations.
- 60.614 Test methods and procedures.
- 60.615 Reporting and recordkeeping requirements.
- 60.616 Reconstruction.
- 60.617 Chemicals affected by subpart III.
- 60.618 Delegation of Authority.

Subpart III—Standards of Performance for Volatile Organic Compound (VOC) Emissions From the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes

§ 60.610 Applicability and designation of affected facility.

(a) The provisions of this subpart apply to each affected facility designated in paragraph (b) of this section that produces any of the chemicals listed in § 60.617 as a product, co-product, by-product, or intermediate, except as provided in paragraph (c) of this section.

(b) The affected facility is any of the following for which construction, modification, or reconstruction commenced after October 21, 1983:

(1) Each air oxidation reactor not discharging its vent stream into a recovery system.

(2) Each combination of an air oxidation reactor and the recovery system into which its vent stream is discharged.

(3) Each combination of two or more air oxidation reactors and the common recovery system into which their vent streams are discharged.

(c) Each affected facility that has a total resource effectiveness (TRE) index

value greater than 4.0 is exempt from all provisions of this subpart except for §§ 60.612, 60.614(f), 60.615(h), and 60.615(l).

[Note: The intent of these standards is to minimize the emissions of VOC through the application of BDT. The numerical emission limits in these standards are expressed in terms of total organic compounds (TOC), measured as TOC minus methane and ethane. This emission limit reflects the performance of BDT.]

§ 60.611 Definitions.

As used in this subpart, all terms not defined here shall have the meaning given them in the Act and in subpart A of part 60, and the following terms shall have the specific meanings given them.

Air Oxidation Reactor means any device or process vessel in which one or more organic reactants are combine with air, or a combination of air and oxygen, to produce one or more organic compounds. Ammoxidation and oxychlorination reactions are included in this definition.

Air Oxidation Reactor Recovery Train means an individual recovery system receiving the vent stream from at least one air oxidation reactor, along with all air oxidation reactors feeding vent streams into this system.

Air Oxidation Unit Process means a unit process, including ammoxidation and oxychlorination unit process, that uses air, or a combination of air and oxygen, as an oxygen source in combination with one or more organic reactants to produce one or more organic compounds.

Boilers means any enclosed combustion device that extracts useful energy in the form of steam.

By Compound means by individual stream components, not carbon equivalents.

Continuous recorder means a data recording device recording an instantaneous data value at least once every 15 minutes.

Flame zone means the portion of the combustion chamber in a boiler occupied by the flame envelope.

Flow indicator means a device which indicates whether gas flow is present in a vent stream.

Halogenated Vent Stream means any vent stream determined to have a total concentration (by volume) of compounds containing halogens of 20 ppmv (by compound) or greater.

Incinerator means any enclosed combustion device that is used for destroying organic compounds and does not extract energy in the form of steam or process heat.

Process Heater means a device that transfers heat liberated by burning fuel to fluids contained in tubes, including all fluids except water that is heated to produce steam.

Process Unit means equipment assembled and connected by pipes or ducts to produce, as intermediates or final products, one or more of the chemicals in § 60.617. A process unit can operate independently if supplied with sufficient fuel or raw materials and sufficient product storage facilities.

Product means any compound or chemical listed in § 60.617 that is produced for sale as a final product as that chemical or is produced for use in a process that needs that chemical for the production of other chemicals in another facility. By-products, co-products, and intermediates are considered to be products.

Recovery Device means an individual unit of equipment, such as an absorber, condenser, and carbon adsorber, capable of and used to recover chemicals for use, reuse or sale.

Recovery System means an individual recovery device or series of such devices applied to the same process stream.

Total organic compounds (TOC) means those compounds measured according to the procedures in § 60.614(b)(4). For the purposes of measuring molar composition as required in § 60.614(d)(2)(i), hourly emissions rate as required in § 60.614(d)(5) and § 60.614(e) and TOC concentration as required in § 60.615(b)(4) and § 60.615(g)(4), those compounds which the Administrator has determined do not contribute appreciably to the formation of ozone are to be excluded. The compounds to be excluded are identified in Environmental Protection Agency's statements on ozone abatement policy for SIP revisions (42 FR 35314; 44 FR 32042; 45 FR 32424; 45 FR 48942).

Total resource effectiveness (TRE) Index Value means a measure of the supplemental total resource requirement per unit reduction of TOC associated with an individual air oxidation vent stream, based on vent stream flow rate, emission rate of TOC, net heating value, and corrosion properties (whether or not the vent stream is halogenated), as quantified by the equation given under § 60.614(e).

Vent Stream means any gas stream, containing nitrogen which was introduced as air to the air oxidation reactor, released to the atmosphere directly from any air oxidation reactor recovery train or indirectly, after diversion through other process equipment. The vent stream excludes

equipment leaks and relief valve discharges including, but not limited to, pumps, compressors, and valves.

§ 60.612 Standards.

Each owner or operator of any affected facility shall comply with paragraph (a), (b), or (c) of this section for each vent stream on and after the date on which the initial performance test required by § 60.8 and § 60.614 is completed, but not later than 60 days after achieving the maximum production rate at which the affected facility will be operated, or 180 days after the initial start-up, whichever date comes first. Each owner or operator shall either:

(a) Reduce emissions of TOC (minus methane and ethane) by 98 weight-percent, or to a TOC (minus methane and ethane) concentration of 20 ppmv on a dry basis corrected to 3 percent oxygen, whichever is less stringent. If a boiler or process heater is used to comply with this paragraph, then the vent stream shall be introduced into the flame zone of the boiler or process heater; or

(b) Combust the emissions in a flare that meets the requirements of § 60.18; or

(c) Maintain a TRE index value greater than 1.0 without use of VOC emission control devices.

§ 60.613 Monitoring of emissions and operations.

(a) The owner or operator of an affected facility that uses an incinerator to seek to comply with the TOC emission limit specified under § 60.612(a) shall install, calibrate, maintain, and operate according to manufacturer's specifications the following equipment:

(1) A temperature monitoring device equipped with a continuous recorder and having an accuracy of ± 1 percent of the temperature being monitored expressed in degrees Celsius or ± 0.5 °C, whichever is greater.

(i) Where an incinerator other than a catalytic incinerator is used, a temperature monitoring device shall be installed in the firebox.

(ii) Where a catalytic incinerator is used, temperature monitoring devices shall be installed in the gas stream immediately before and after the catalyst bed.

(2) A flow indicator that provides a record of vent stream flow to the incinerator at least once every hour for each affected facility. The flow indicator shall be installed in the vent stream from each affected facility at a point closest to the inlet of each incinerator and before being joined with any other vent stream.

(b) The owner or operator of an affected facility that uses a flare to seek to comply with § 60.612(b) shall install, calibrate, maintain, and operate according to manufacturer's specifications the following equipment:

(1) A heat sensing device, such as an ultra-violet sensor or thermocouple, at the pilot light to indicate the continuous presence of a flame.

(2) A flow indicator that provides a record of vent stream flow to the flare at least once every hour for each affected facility. The flow indicator shall be installed in the vent stream from each affected facility at a point closest to the flare and before being joined with any other vent stream.

(c) The owner or operator of an affected facility that uses a boiler or process heater to seek to comply with § 60.612(a) shall install, calibrate, maintain and operate according to the manufacturer's specifications in the following equipment:

(1) A flow indicator that provides a record of vent stream flow to the boiler or process heater at least once every hour for each affected facility. The flow indicator shall be installed in the vent stream from each air oxidation reactor within an affected facility at a point closest to the inlet of each boiler or process heater and before being joined with any other vent stream.

(2) A temperature monitoring device in the firebox equipped with a continuous recorder and having an accuracy of ± 1 percent of the temperature being measured expressed in degrees Celsius or ± 0.5 °C, whichever is greater, for boilers or process heaters of less than 44 MW (150 million Btu/hr) heat input design capacity.

(3) Monitor and record the periods of operation of the boiler or process heater if the design input capacity of the boiler is 44 MW (150 million Btu/hr) or greater. The records must be readily available for inspection.

(d) The owner or operator of an affected facility that seeks to demonstrate compliance with the TRE index value limit specified under § 60.612(c) shall install, calibrate, maintain, and operate according to manufacturer's specifications the following equipment, unless alternative monitoring procedures or requirements are approved for that facility by the Administrator:

(1) Where an absorber is the final recovery device in a recovery system:

(i) A scrubbing liquid temperature monitoring device having an accuracy of ± 1 percent of the temperature being monitored expressed in degrees Celsius

or 0.5 °C, whichever is greater, and a specific gravity monitoring device having an accuracy of 0.02 specific gravity units, each equipped with a continuous recorder;

(ii) An organic monitoring device used to indicate the concentration level of organic compounds exiting the recovery device based on a detection principle such as infra-red, photoionization, or thermal conductivity, each equipped with a continuous recorder.

(2) Where a condenser is the final recovery device in a recovery system:

(i) A condenser exit (product side) temperature monitoring device equipped with a continuous recorder and having an accuracy of ± 1 percent of the temperature being monitored expressed in degrees Celsius or 0.5 °C, whichever is greater;

(ii) An organic monitoring device used to indicate the concentration level of organic compounds exiting the recovery device based on a detection principle such as infra-red, photoionization, or thermal conductivity, each equipped with a continuous recorder.

(3) Where a carbon adsorber is the final recovery device in a recovery system:

(i) An integrating steam flow monitoring device having an accuracy of 10 percent, and a carbon bed temperature monitoring device having an accuracy of ± 1 percent of the temperature being monitored expressed in degrees Celsius or ± 0.5 °C, whichever is greater, both equipped with a continuous recorder;

(ii) An organic monitoring device used to indicate the concentration level of organic compounds exiting the recovery device based on a detection principle such as infra-red, photoionization, or thermal conductivity, each equipped with a continuous recorder.

(e) An owner or operator of an affected facility seeking to demonstrate compliance with the standards specified under § 60.612 with control devices other than an incinerator, boiler, process heater, or flare; or recovery devices other than an absorber, condenser, or carbon adsorber shall provide to the Administrator information describing the operation of the control device or recovery device and the process parameter(s) which would indicate proper operation and maintenance of the device. The Administrator may request further information and will specify appropriate monitoring procedures or requirements.

§ 60.614 Test methods and procedures.

(a) For the purpose of demonstrating compliance with § 60.612, all affected facilities shall be run at full operating

conditions and flow rates during any performance test.

(b) The following methods in appendix A to this part, except as provided under § 60.8(b) shall be used as reference methods to determine compliance with the emission limit or percent reduction efficiency specified under § 60.612(a).

(1) Method 1 or 1A, as appropriate, for selection of the sampling sites. The control device inlet sampling site for determination of vent stream molar composition or TOC (less methane and ethane) reduction efficiency shall be prior to the inlet of the control device and after the recovery system.

(2) Method 2, 2A, 2C, or 2D, as appropriate, for determination of the volumetric flow rates.

(3) The emission rate correction factor, integrated sampling and analysis procedure of Method 3 shall be used to determine the oxygen concentration (%O_{2d}) for the purposes of determining compliance with the 20 ppmv limit. The sampling site shall be the same as that of the TOC samples and the samples shall be taken during the same time that the TOC samples are taken.

The TOC concentration corrected to 3 percent O₂ (C_c) shall be computed using the following equation:

$$C_c = C_{TOC} \frac{17.9}{20.9 - \%O_{2d}}$$

where:

C_c = Concentration of TOC corrected to 3 percent O₂, dry basis, ppm by volume.

C_{TOC} = Concentration of TOC (minus methane and ethane), dry basis, ppm by volume.

%O_{2d} = Concentration of O₂, dry basis, percent by volume.

(4) Method 18 to determine concentration of TOC in the control device outlet and the concentration of TOC in the inlet when the reduction efficiency of the control device is to be determined.

(i) The sampling time for each run shall be 1 hour in which either an integrated sample or four grab samples shall be taken. If grab sampling is used then the samples shall be taken at 15-minute intervals.

(ii) The emission reduction (R) of TOC (minus methane and ethane) shall be determined using the following equation:

$$R = \frac{E_i - E_o}{E_i} \times 100$$

where:

R = Emission reduction, percent by weight.

E_i = Mass rate of TOC entering the control device, kg TOC/hr.

E_o = Mass rate of TOC discharged to the atmosphere, kg TOC/hr.

(iii) The mass rates of TOC (E_i, E_o) shall be computed using the following equations:

$$E_i = K_2 \left(\sum_{j=1}^n C_{ij} M_{ij} \right) Q_i$$

$$E_o = K_2 \left(\sum_{j=1}^n C_{oj} M_{oj} \right) Q_o$$

Where:

C_{ij}, C_{oj} = Concentration of sample component "j" of the gas stream at the inlet and outlet of the control device, respectively, dry basis ppm by volume.

M_{ij}, M_{oj} = Molecular weight of sample component "j" of the gas stream at the inlet and outlet of the control device, respectively, g/g-mole (lb/lb-mole).

Q_i, Q_o = Flow rate of gas stream at the inlet and outlet of the control device, respectively, dscm/min (dscf/hr).

K₂ = Constant, 2.494 × 10⁻⁶ (1/ppm) (g-mole/scm) (kg/g) (min/hr), where standard temperature for (g-mole/scm) is 20 °C.

(iv) The TOC concentration (C_{TOC}) is the sum of the individual components and shall be computed for each run using the following equation:

$$C_{TOC} = \sum_{j=1}^n C_j$$

where:

C_{TOC} = Concentration of TOC (minus methane and ethane), dry basis, ppm by volume.

C_j = Concentration of sample components in the sample.

n = Number of components in the sample.

(5) When a boiler or process heater with a design heat input capacity of 44 MW (150 million Btu/hour) or greater is used to seek to comply with § 60.612(a), the requirement for an initial performance test is waived, in accordance with § 60.8(b). However, the Administrator reserves the option to require testing at such other times as may be required, as provided for in section 114 of the Act.

(c) When a flare is used to seek to comply with § 60.612(b), the flare shall comply with the requirements of § 60.18.

(d) The following test methods in appendix A to this part, except as provided under § 60.8(b), shall be used

for determining the net heating value of the gas combusted to determine compliance under § 60.612(b) and for determining the process vent stream TRE index value to determine compliance under § 60.612(c).

(1)(i) Method 1 or 1A, as appropriate, for selection of the sampling site. The sampling site for the vent stream flow rate and molar composition determination prescribed in § 60.614(d) (2) and (3) shall be, except for the situations outlined in paragraph (d)(1)(ii) of this section, prior to the inlet of any control device, prior to any post-reactor dilution of the stream with air, and prior to any post-reactor introduction of halogenated compounds into the vent stream. No transverse site selection method is needed for vents smaller than 4 inches in diameter.

(ii) If any gas stream other than the air oxidation vent stream from the affected facility is normally conducted through the final recovery device.

(A) The sampling site for vent stream flow rate and molar composition shall be prior to the final recovery device and prior to the point at which the nonair oxidation stream is introduced.

(B) The efficiency of the final recovery device is determined by measuring the TOC concentration using Method 18 at the inlet to the final recovery device after the introduction of any nonair oxidation vent stream and at the outlet of the final recovery device.

(C) This efficiency is applied to the TOC concentration measured prior to the final recovery device and prior to the introduction of the nonair oxidation stream to determine the concentration of TOC in the air oxidation stream from the final recovery device. This concentration of TOC is then used to perform the calculations outlined in § 60.614(d) (4) and (5).

(2) The molar composition of the process vent stream shall be determined as follows:

(i) Method 18 to measure the concentration of TOC including those containing halogens.

(ii) ASTM D1946-77 (incorporation by reference as specified in § 60.17 of this

part) to measure the concentration of carbon monoxide and hydrogen.

(iii) Method 4 to measure the content of water vapor.

(3) The volumetric flow rate shall be determined using Method 2, 2A, 2C, or 2D, as appropriate.

(4) The net heating value of the vent stream shall be calculated using the following equation:

$$H_T = K_1 \left(\sum_{j=1}^n C_j H_j \right)$$

where:

H_T = Net heating value of the sample, MJ/scm, where the net enthalpy per mole of offgas is based on combustion at 25 °C and 760 mm Hg, but the standard temperature for determining the volume corresponding to one mole is 20 °C, as in the definition of Q_s (offgas flow rate).

K_1 = Constant, 1.740×10^{-7}

(1)	(g mole)	(MJ)
ppm	scm	kcal

where standard temperature for

$$\frac{(\text{g-mole})}{\text{scm}}$$

is 20 °C.

C_j = Concentration of compound j in ppm, as measured for organics by Method 18 and measured for hydrogen and carbon monoxide by ASTM D1946-77 (incorporated by reference as specified in § 60.17 of this part) as indicated in § 60.614(d)(2).

H_j = Net heat of combustion j, kcal/g-mole, based on combustion at 25 °C and 760 mm Hg. The heats of combustion of vent stream components would be required to be determined using ASTM D2382-76 (incorporation by reference as specified in § 60.17 of this part) if published values are not available or cannot be calculated.

(5) The emission rate of TOC in the process vent stream shall be calculated using the following equation:

$$E_{\text{TOC}} = K_2 \left[\sum_{j=1}^n C_j M_j \right] Q_s$$

where:

E_{TOC} = Emission rate of TOC in the sample, kg/hr

K_2 = Constant, 2.494×10^{-6} (1/ppm) (g-mole/scm) (kg/g) (min/hr), where standard temperature for (g-mole/scm) is 20 °C

C_j = Concentration on a basis of compound j in ppm as measured by Method 18 as indicated in § 60.614(d)(2)

M_j = Molecular weight of sample j, g/g-mole

Q_s = Vent stream flow rate (scm/min) at a standard temperature of 20 °C

(6) The total process vent stream concentration (by volume) of compounds containing halogens (ppmv, by compound) shall be summed from the individual concentrations of compounds containing halogens which were measured by Method 18.

(e) For purposes of complying with § 60.612(c), the owner or operator of a facility affected by this subpart shall calculate the TRE index value of the vent stream using the equation for incineration in paragraph (e)(1) of this section for halogenated vent streams. The owner or operator of an affected facility with a nonhalogenated vent stream shall determine the TRE index value by calculating values using both the incinerator equation in paragraph (e)(1) of this section and the flare equation in paragraph (e)(2) of this section and selecting the lower of the two values.

(1) The TRE index value of the vent stream controlled by an incinerator shall be calculated using the following equation:

$$\text{TRE} = \frac{1}{E_{\text{TOC}}} \left[a + b (Q_s)^{0.55} + c (Q_s) + d (Q_s) (H_T) + e (Q_s)^{0.55} (H_T)^{0.55} + f (Y_s)^{0.5} \right]$$

(i) where for a vent stream flow rate (scm/min) at a standard temperature of 20 °C that is greater than or equal to 14.2 scm/min:

TRE = TRE index value.

Q_v = Vent stream flow rate (scm/min), at a standard temperature of 20 °C.

H_T = Vent stream net heating value (MJ/scm), where the net enthalpy of combustion per mole of vent stream is based on combustion at 25 °C and 760 mm Hg, but the standard temperature for determining the volume corresponding to one mole is 20 °C, as in the definition of Q_v .

$Y_v = Q_v$ for all vent stream categories listed in Table 1 except for Category E vent streams where $Y_v = (Q_v)(H_T)/3.6$.

E_{TOC} = Hourly emissions of TOC reported in kg/hr.

a, b, c, d, e, and f are coefficients.

The set of coefficients which apply to a vent stream shall be obtained from Table 1.

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TABLE 1. AIR OXIDATION NSPS TRE COEFFICIENTS FOR VENT STREAMS CONTROLLED BY AN INCINERATOR

DESIGN CATEGORY A1. FOR HALOGENATED PROCESS VENT STREAMS, IF $0 \leq$ NET HEATING VALUE (MJ/scm) ≤ 3.5 :

Q_s = Vent Stream Flow rate (scm/min)	a	b	c	d	e	f
$14.2 < Q_s \leq 18.8$	19.18370	0.27580	0.75762	-0.13064	0	0.01025
$18.8 < Q_s \leq 699$	20.00563	0.27580	0.30387	-0.13064	0	0.01025
$699 < Q_s \leq 1400$	39.87022	0.29973	0.30387	-0.13064	0	0.01449
$1400 < Q_s \leq 2100$	59.73481	0.31467	0.30387	-0.13064	0	0.01775
$2100 < Q_s \leq 2800$	79.59941	0.32572	0.30387	-0.13064	0	0.02049
$2800 < Q_s \leq 3500$	99.46400	0.33456	0.30387	-0.13064	0	0.02291

DESIGN CATEGORY A2. FOR HALOGENATED PROCESS VENT STREAMS, IF NET HEATING VALUE > 3.5 MJ/scm:

Q_s = Vent Stream Flow rate (scm/min)	a	b	c	d	e	f
$14.2 < Q_s \leq 18.8$	18.84466	0.26742	-0.20044	0	0	0.01025
$18.8 < Q_s \leq 699$	19.66658	0.26742	-0.25332	0	0	0.01025
$699 < Q_s \leq 1400$	39.19213	0.29062	-0.25332	0	0	0.01449
$1400 < Q_s \leq 2100$	58.71768	0.30511	-0.25332	0	0	0.01775
$2100 < Q_s \leq 2800$	78.24323	0.31582	-0.25332	0	0	0.02049
$2800 < Q_s \leq 3500$	97.76879	0.32439	-0.25332	0	0	0.02291

DESIGN CATEGORY B. FOR NONHALOGENATED PROCESS VENT STREAMS, IF $0 \leq$ NET HEATING VALUE (MJ/scm) ≤ 0.48 :

Q_s = Vent Stream Flow rate (scm/min)	a	b	c	d	e	f
$14.2 < Q_s \leq 1340$	8.54245	0.10555	0.09030	-0.17109	0	0.01025
$1340 < Q_s \leq 2690$	16.94386	0.11470	0.09030	-0.17109	0	0.01449
$2690 < Q_s \leq 4040$	25.34528	0.12042	0.09030	-0.17109	0	0.01775

DESIGN CATEGORY C. FOR NONHALOGENATED PROCESS VENT STREAMS, IF $0.48 <$ NET HEATING VALUE (MJ/scm) ≤ 1.9 :

Q_s = Vent Stream Flow rate (scm/min)	a	b	c	d	e	f
$14.2 < Q_s \leq 1340$	9.25233	0.06105	0.31937	-0.16181	0	0.01025
$1340 < Q_s \leq 2690$	18.36363	0.06635	0.31937	-0.16181	0	0.01449
$2690 < Q_s \leq 4040$	27.47492	0.06965	0.31937	-0.16181	0	0.01775

DESIGN CATEGORY D. FOR NONHALOGENATED PROCESS VENT STREAMS, IF $1.9 <$ NET HEATING VALUE (MJ/scm) ≤ 3.6 :

Q_s = Vent Stream Flow rate (scm/min)	a	b	c	d	e	f
$14.2 < Q_s \leq 1180$	6.67868	0.06943	0.02582	0	0	0.01025
$1180 < Q_s \leq 2370$	13.21633	0.07546	0.02582	0	0	0.01449
$2370 < Q_s \leq 3550$	19.75398	0.07922	0.02582	0	0	0.01775

DESIGN CATEGORY E. FOR NONHALOGENATED PROCESS VENT STREAMS, IF NET HEATING VALUE > 3.6 MJ/scm:

Y_s = Dilution Flow rate (scm/min) = $(Q_s)(H_T)/3.6$	a	b	c	d	e	f
$14.2 < Y_s \leq 1180$	6.67868	0	0	-0.00707	0.02220	0.01025
$1180 < Y_s \leq 2370$	13.21633	0	0	-0.00707	0.02412	0.01449
$2370 < Y_s \leq 3550$	19.75398	0	0	-0.00707	0.02533	0.01775

(ii) Where for a vent stream flow rate (scm/min) at a standard temperature of 20 °C that is less than 14.2 scm/min:

TRE = TRE index value.

$Q_v = 14.2$ scm/min.

$H_T = (FLOW)(HVAL)/14.2$.

Where the following inputs are used:

FLOW = Vent stream flow rate (scm/min), at a standard temperature of 20 °C.

HVAL = Vent stream net heating value (MJ/scm), where the net enthalpy per mole of vent stream is based on combustion at 25 °C and 760 mm Hg, but the standard temperature for determining the volume corresponding to 1 mole is 20 °C as in the definition of Q_v .

$Y_v = 14.2$ scm/min for all vent stream categories listed in Table 1 except for Category E vent streams, where

$Y_v = (14.2)(H_T)/3.6$.

E_{TOC} = Hourly emissions of TOC reported in kg/hr.

a, b, c, d, e, and f are coefficients.

The set of coefficients that apply to a vent stream can be obtained from Table 1.

(2) The equation for calculating the TRE index value of a vent stream controlled by a flare is as follows:

$$TRE = \frac{1}{E_{TOC}} \left[a(Q_v) + b(Q_v)^{a_s} + c(Q_v)(H_T) + d(E_{TOC}) + e \right]$$

where:

TRE = TRE index value.

E_{TOC} = Hourly emission rate of TOC reported in kg/hr.

Q_v = Vent stream flow rate (scm/min) at a standard temperature of 20 °C.

H_T = Vent stream net heating value (MJ/scm) where the net enthalpy per mole of offgas is based on combustion at 25 °C and 760 mm Hg, but the standard temperature for determining the volume corresponding to 1 mole is 20 °C as in the definition of Q_v .

a, b, c, d, and e are coefficients.

The set of coefficients that apply to a vent stream shall be obtained from Table 2.

TABLE 2.—AIR OXIDATION PROCESSES NSPS TRE COEFFICIENTS FOR VENT STREAMS CONTROLLED BY A FLARE

	a	b	c	d	e
$H_T < 11.2$ MJ/scm.....	2.25	0.288	-0.193	-0.0051	2.08
$H_T > 11.2$ MJ/scm.....	0.309	0.619	-0.0043	-0.0034	2.08

(f) Each owner or operator of an affected facility seeking to comply with § 60.610(c) or § 60.612(c) shall recalculate the TRE index value for that affected facility whenever process changes are made. Some examples of process changes are changes in production capacity, feedstock type, or catalyst type, or whenever there is replacement, removal, or addition of recovery equipment. The TRE index value shall be recalculated based on test data, or on best engineering estimates of the effects of the change to the recovery system.

(1) Where the recalculated TRE index value is less than or equal to 1.0, the owner or operator shall notify the Administrator within 1 week of the recalculation and shall conduct a performance test according to the methods and procedures required by § 60.614 to determine compliance with § 60.612(a). Performance tests must be conducted as soon as possible after the process change but no later than 180 days from the time of the process change.

(2) Where the initial TRE index value is greater than 4.0 and the recalculated TRE index value is less than or equal to 4.0, but greater than 1.0, the owner or operator shall conduct a performance

test in accordance with § 60.8 and § 60.614 and shall comply with § 60.613, § 60.614, and § 60.615. Performance tests must be conducted as soon as possible after the process change but no later than 180 days from the time of the process change.

§ 60.615 Reporting and recordkeeping requirements.

(a) Each owner or operator subject to § 60.612 shall notify the Administrator of the specific provisions of § 60.612 (§ 60.612 (a) (b), or (c)) with which the owner or operator has elected to comply. Notification shall be submitted with the notification of initial start-up required by § 60.7(a)(3). If an owner or operator elects at a later date to use an alternative provision of § 60.612 with which he or she will comply, then the Administrator shall be notified by the owner or operator 90 days before implementing a change and, upon implementing the change, a performance test shall be performed as specified by § 60.614 within 180 days.

(b) Each owner or operator subject to the provisions of this subpart shall keep up-to-date, readily accessible records of the following data measured during each performance test, and also include the following data in the report of the initial

performance test required under § 60.8. Where a boiler or process heater with a design heat input capacity of 44 MW (150 million Btu/hour) or greater is used to comply with § 60.612(a), a report containing performance test data need not be submitted, but a report containing the information of § 60.615(b)(2)(i) is required. The same data specified in this section shall be submitted in the reports of all subsequently required performance tests where either the emission control efficiency of a control device, outlet concentration of TOC, or the TRE index value of a vent stream from a recovery system is determined.

(1) Where an owner or operator subject to this subpart seeks to demonstrate compliance with § 60.612(a) through use of either a thermal or catalytic incinerator:

(i) The average firebox temperature of the incinerator (or the average temperature upstream and downstream of the catalyst bed for a catalytic incinerator), measured at least every 15 minutes and averaged over the same time period of the performance testing, and

(ii) The percent reduction of TOC determined as specified in § 60.614(b) achieved by the incinerator, or the concentration of TOC (ppmv, by

compound) determined as specified in § 60.614(b) at the outlet of the control device on a dry basis corrected to 3 percent oxygen.

(2) Where an owner or operator subject to the provisions of this subpart seeks to demonstrate compliance with § 60.612(a) through use of a boiler or process heater:

(i) A description of the location at which the vent stream is introduced into the boiler or process heater, and

(ii) The average combustion temperature of the boiler or process heater with a design heat input capacity of less than 44 MW (150 million Btu/hr) measured at least every 15 minutes and averaged over the same time period of the performance testing.

(3) Where an owner or operator subject to the provisions of this subpart seeks to comply with § 60.612(b) through the use of a smokeless flare, flare design (i.e., steam-assisted, air-assisted, or nonassisted), all visible emission readings, heat content determinations, flow rate measurements, and exit velocity determinations made during the performance test, continuous records of the flare pilot flame monitoring, and records of all periods of operations during which the pilot flame is absent.

(4) Where an owner or operator seeks to demonstrate compliance with § 60.612(c):

(i) Where an absorber is the final recovery device in a recovery system, the exit specific gravity (or alternative parameter which is a measure of the degree of absorbing liquid saturation, if approved by the Administrator), and average exit temperature of the absorbing liquid, measured at least every 15 minutes and averaged over the same time period of the performance testing (both measured while the vent stream is normally routed and constituted), or

(ii) Where a condenser is the final recovery device in a recovery system, the average exit (product side) temperature, measured at least every 15 minutes and average over the same time period of the performance testing while the vent stream is normally routed and constituted.

(iii) Where a carbon adsorber is the final recovery device in a recovery system, the total steam mass flow measured at least every 15 minutes and averaged over the same time period of the performance test (full carbon bed cycle), temperature of the carbon bed after regeneration (and within 15 minutes of completion of any cooling cycle(s), and duration of the carbon bed steaming cycle (all measured while the vent stream is normally routed and constituted), or

(iv) As an alternative to § 60.615(b)(4)(i), (ii) or (iii), the concentration level or reading indicated by the organic monitoring device at the outlet of the absorber, condenser, or carbon adsorber measured at least every 15 minutes and averaged over the same time period of the performance testing while the vent stream is normally routed and constituted.

(v) All measurements and calculations performed to determine the TRE index value of the vent stream.

(c) Each owner or operator subject to the provisions of this subpart shall keep up-to-date, readily accessible continuous records of the equipment operating parameters specified to be monitored under § 60.613(a) and (c) as well as up-to-date, readily accessible records of periods of operation during which the parameter boundaries established during the most recent performance test are exceeded. The Administrator may at any time require a report of these data. Where a combustion device is used by an owner or operator seeking to demonstrate compliance with § 60.612(a) or (c), periods of operation during which the parameter boundaries established during the most recent performance tests are exceeded are defined as follows:

(1) For thermal incinerators, all 3-hour periods of operation during which the average combustion temperature was more than 28 °C (50 °F) below the average combustion temperature during the most recent performance test at which compliance with § 60.612(a) was determined.

(2) For catalytic incinerators, all 3-hour periods of operation during which the average temperature of the vent stream immediately before the catalyst bed is more than 28 °C (50 °F) below the average temperature of the vent stream during the most recent performance test at which compliance with § 60.612(a) was determined. The owner or operator also shall record all 3-hour periods of operation during which the average temperature difference across the catalyst bed is less than 80 percent of the average temperature difference of the device during the most recent performance test at which compliance with § 60.612(a) was determined.

(3) All 3-hour periods of operation during which the average combustion temperature was more than 28 °C (50 °F) below the average combustion temperature during the most recent performance test at which compliance with § 60.612(a) was determined for boilers or process heaters with a design heat input capacity of less than 44 MW (150 million Btu/hr).

(4) For boilers or process heaters, whenever there is a change in the location at which the vent stream is introduced into the flame zone as required under § 60.612(a).

(d) Each owner or operator subject to the provisions of this subpart shall keep up-to-date, readily accessible continuous records of the flow indication specified under § 60.613(a)(2), § 60.613(b)(2), and § 60.613(c)(1), as well as up-to-date, readily accessible records of all periods when the vent stream is diverted from the control device or has no flow rate.

(e) Each owner or operator subject to the provisions of this subpart who uses a boiler or process heater with a design heat input capacity of 44 MW or greater to comply with § 60.612(a) shall keep an up-to-date, readily accessible record of all periods of operation of the boiler or process heater. (Examples of such records could include records of steam use, fuel use, or monitoring data collected pursuant to other State or Federal regulatory requirements).

(f) Each owner or operator subject to the provisions of this subpart shall keep up-to-date, readily accessible continuous records of the flare pilot flame monitoring specified in § 60.613(b), as well as up-to-date, readily accessible records of all periods of operations in which the pilot flame is absent.

(g) Each owner or operator subject to the provisions of this subpart shall keep up-to-date, readily accessible continuous records of the equipment operating parameters specified to be monitored under § 60.613(c) as well as up-to-date, readily accessible records of periods of operation during which the parameter boundaries established during the most recent performance test are exceeded. The Administrator may at any time require a report of these data. Where the owner or operator seeks to demonstrate compliance with § 60.612(c), periods of operation during which the parameter boundaries established during the most recent performance tests are exceeded are defined as follows:

(1) Where an absorber is the final recovery device in a recovery system, and where an organic monitoring device is not used:

(i) All 3-hour periods of operation during which the average absorbing liquid temperature was more than 11 °C (20 °F) above the average absorbing liquid temperature during the most recent performance test, or

(ii) All 3-hour periods of operation during which the average absorbing liquid specific gravity was more than 0.1

unit above, or more than 0.1 unit below, the average absorbing liquid specific gravity during the most recent performance test (unless monitoring of an alternative parameter, which is a measure of the degree of absorbing liquid saturation, is approved by the Administrator, in which case he or she will define appropriate parameter boundaries and periods of operation during which they are exceeded).

(2) When a condenser is the final recovery device in a recovery system, and where an organic monitoring device is not used, all 3-hour periods of operation during which the average exit (product side) condenser operating temperature was more than 6 °C (11 °F) above the average exit (product side) operating temperature during the most recent performance test.

(3) Where a carbon adsorber is the final recovery device in a recovery system and where an organic monitoring device is not used:

(i) All carbon bed regeneration cycles during which the total mass steam flow was more than 10 percent below the total mass steam flow during the most recent performance test, or

(ii) All carbon bed regeneration cycles during which the temperature of the carbon bed after regeneration (and after completion of any cooling cycle(s)) was more than 10 percent greater than the carbon bed temperature (in degrees Celsius) during the most recent performance test.

(4) Where an absorber, condenser, or carbon adsorber is the final recovery device in the recovery system and an organic monitoring device approved by the Administrator is used, all 3-hour periods of operation during which the average concentration level or reading of organic compounds in the exhaust gases is more than 20 percent greater than the exhaust gas organic compound concentration level or reading measured by the monitoring device during the most recent performance test.

(h) Each owner or operator subject to the provisions of this subpart and seeking to demonstrate compliance with § 60.612(c) shall keep up-to-date, readily accessible records of:

(1) Any changes in production capacity, feedstock type, or catalyst type, or of any replacement, removal or addition of recovery equipment or air oxidation reactors;

(2) Any recalculation of the TRE index value performed pursuant to § 60.614(f);

(3) The results of any performance test performed pursuant to the methods and

procedures required by § 60.614(d).

(i) Each owner and operator subject to the provisions of this subpart is exempt from the quarterly reporting requirements contained in § 60.7(c) of the General Provisions.

(j) Each owner or operator that seeks to comply with the requirements of this subpart by complying with the requirements of § 60.612 shall submit to the Administrator semiannual reports of the following information. The initial report shall be submitted within 6 months after the initial start-up-date.

(1) Exceedances of monitored parameters recorded under § 60.615(c) and (g).

(2) All periods recorded under § 60.615(d) when the vent stream is diverted from the control device or has no flow rate.

(3) All periods recorded under § 60.615(e) when the boiler or process heater was not operating.

(4) All periods recorded under § 60.615(f) in which the pilot flame of the flare was absent.

(5) Any recalculation of the TRE index value, as recorded under § 60.615(h).

(k) The requirements of § 60.615(j) remain in force until and unless EPA, in delegating enforcement authority to a State under section 111(c) of the Act, approves reporting requirements or an alternative means of compliance surveillance adopted by such State. In that event, affected sources within the State will be relieved of the obligation to comply with § 60.615(j), provided that they comply with the requirements established by the State.

(l) The Administrator will specify appropriate reporting and recordkeeping requirements where the owner or operator of an affected facility seeks to demonstrate compliance with the standards specified under § 60.612 other than as provided under § 60.613 (a), (b), (c), and (d).

§ 60.616 Reconstruction.

For purposes of this subpart "fixed capital cost of the new components," as used in § 60.15, includes the fixed capital cost of all depreciable components which are or will be replaced pursuant to all continuous programs of component replacement which are commenced within any 2-year period following October 21, 1983. For purposes of this paragraph, "commenced" means that an owner or operator has undertaken a continuous

program of component replacement or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of component replacement.

(Approved by OMB under the control number 2060-0053)

§ 60.617 Chemicals affected by subpart III.

Chemical name	CAS No.*
Acetaldehyde.....	75-07-0
Acetic acid.....	64-19-7
Acetone.....	67-64-1
Acetonitrile.....	75-05-8
Acetophenone.....	98-86-2
Acrolein.....	107-02-8
Acrylic acid.....	79-10-7
Acrylonitrile.....	107-13-1
Anthraquinone.....	84-65-1
Benzaldehyde.....	100-52-7
Benzoic acid, tech.....	65-85-0
1,3-Butadiene.....	106-99-0
p-t-Butyl benzoic acid.....	98-73-7
N-Butyric acid.....	107-82-6
Crotonic acid.....	3724-65-0
Cumene hydroperoxide.....	80-15-8
Cyclohexanol.....	108-93-0
Cyclohexanone.....	108-94-1
Dimethyl terephthalate.....	120-61-6
Ethylene dichloride.....	107-06-2
Ethylene oxide.....	75-21-8
Formaldehyde.....	50-00-0
Formic acid.....	64-18-6
Glyoxal.....	107-22-2
Hydrogen cyanide.....	74-90-8
Isobutyric acid.....	79-31-2
Isophthalic acid.....	121-91-5
Maleic anhydride.....	108-31-6
Methyl ethyl ketone.....	78-93-3
o-Methyl styrene.....	98-83-9
Phenol.....	108-95-2
Phthalic anhydride.....	85-44-9
Propionic acid.....	79-09-4
Propylene oxide.....	75-56-9
Styrene.....	100-42-5
Terephthalic acid.....	100-21-0

*CAS numbers refer to the Chemical Abstracts Registry numbers assigned to specific chemicals, isomers, or mixtures of chemicals. Some isomers or mixtures that are covered by the standards do not have CAS numbers assigned to them. The standards apply to all of the chemicals listed, whether CAS numbers have been assigned or not.

§ 60.618 Delegation of authority.

(a) In delegating implementation and enforcement authority to a State under section 111(c) of the Act, the authorities contained in paragraph (b) of this section shall be retained by the Administrator and not transferred to a State.

(b) Authorities which will not be delegated to States: § 60.613(e).

[FR Doc. 90-14263 Filed 6-28-90; 8:45 am]

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40 CFR Part 60

[AD-FRL-2960-6]

RIN 2060-AA35

Standards of Performance for New Stationary Sources; Volatile Organic Compound (VOC) Emissions From the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

SUMMARY: Standards of performance for distillation unit operations in the SOCMI were proposed in the Federal Register on December 30, 1983 (48 FR 57538). On May 16, 1985, the public comment period was reopened (50 FR 20446) for the purpose of allowing public comment on revisions to the affected facility designation and the costing procedures. Today's action promulgates standards of performance for SOCMI distillation unit operations. These standards implement section 111 of the Clean Air Act (CAA) and are based on the Administrator's determination that VOC emissions from SOCMI cause or contribute significantly to air pollution which may reasonably be anticipated to endanger public health or welfare. The intended effect of these standards is to require all new, modified, and reconstructed distillation facilities to achieve an emission reduction that reflects the capabilities of the best demonstrated system of continuous emission reduction, considering costs, nonair quality health, and environmental and energy impacts.

EFFECTIVE DATE: June 29, 1990. Under section 307(b)(1) of the CAA, judicial review of the actions taken by this notice is available only by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of today's publication of this rule. Under section 307(b)(2) of the CAA, the requirements that are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Incorporation by Reference: The incorporation by reference of certain publications in these standards is approved by the Director of the Office of the Federal Register as of June 29, 1990.

ADDRESSES: Background Information Document. The background information document (BID) for the promulgated standards may be obtained from the U.S. EPA Library (MD-35), Research Triangle Park, North Carolina 27711, telephone number (919) 541-2777. Please refer to "Distillation Operations in Synthetic Organic Chemical

Manufacturing Industry—Background Information for Promulgated Standards," EPA-450/3-83-005b. The BID contains: (1) A summary of all the public comments made on the proposed standards and the Administrator's response to the comments, (2) a summary of the changes made to the regulation since proposal, and (3) the final Environmental Impact Statement which summarizes the impacts of the standards.

Docket. A docket, number A-80-25, containing information considered by EPA in development of the promulgated standards, is available for public inspection between 8 a.m. and 4 p.m., Monday through Friday, at EPA's Central Docket Section (LE-131), South Conference Center, room 4, 401 M Street SW., Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Doug Bell or Ms. Debbie Stackhouse, telephone (919) 541-5568 and 5258, respectively, concerning regulatory decisions. Mr. Robert E. Rosensteel or Mr. David A. Beck, telephone (919) 541-5608 and 5421, respectively, concerning technical aspects of the industry and control technologies. The address for the above contacts is Emission Standards Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION:**The Standards**

Standards of performance for new sources established under section 111 of the CAA reflect:

* * * application of the best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated [section 111(a)(1)].

For convenience, this will be referred to as "best demonstrated technology" or "BDT."

The promulgated standards apply to new, modified, and reconstructed distillation facilities within the SOCMI. The standards apply to distillation facilities operating as part of a process unit which produces any of the chemicals listed in section 60.667 as a product. The definition of "process unit" and "product" is discussed below in the section entitled: *Significant Comments and Changes to the Proposed Standards*. The affected facility is designated as a single distillation column with its own individual recovery system (if any) or the combination of two or more

distillation columns and the common recovery system they share. A recovery system consists of any device, or devices, capable of and used for the purpose of recovering chemicals for use, reuse, or sale and may include both primary and secondary recovery devices. Some examples of recovery devices are absorbers, adsorbers, and condensers as well as certain devices that recover non-VOC's, such as ammonia and hydrogen chloride recovery units. The designation of affected facility has been changed since the proposed regulation, where an affected facility was designated as a single distillation unit and associated recovery system. Reasons for the change are given in the section below entitled: *Significant Comments and Changes to the Proposed Standards*.

Construction, reconstruction or modification of the affected facility must have begun after December 30, 1983, for the standards to be applicable. Existing facilities are not subject to the standards unless modified or reconstructed as defined in 40 CFR 60.14 or 60.15.

Distillation facilities operating as part of a process unit which produces coal tar or beverage alcohols, or which uses, contains, or produces no VOC are not affected facilities. Any distillation facility that is part of a process unit that has a total design production capacity less than one Gg/yr for the entire process unit has to meet the requirements in paragraphs (j), (l)(6), and (n) of § 60.665 only. Any distillation facility operated with a maximum vent stream flow rate less than 0.008 m³/min has to meet the requirements in § 60.664(g) and paragraphs (i), (l)(5), and (o) of § 60.665 only. Any distillation facility operating as part of a polymer manufacturing process that is subject to the provisions of the polymer manufacturing new source performance standards (NSPS) (subpart DDD) is not subject to these standards. Any distillation facility that is designed and operated as a batch operation is exempt from the distillation operation NSPS.

The standards include emission reduction requirements and/or emission limits which are based on the emission reduction capabilities of the BDT. However, the standards do not require that a specific device or technology be used for those facilities that must comply with the emission reduction requirements. Rather, any control technology other than recovery devices as defined in the standards can be used as long as it can be demonstrated that it is at least as effective as BDT at reducing VOC emissions.

Due to variations in the vent stream characteristics of flow rate, heat content, and concentration of organic compounds, the total cost of control per unit of VOC removed would vary considerably among the different types of distillation facilities. The Administrator has determined that for some distillation facilities, the cost of control per unit of VOC reduced is unreasonably high. Thus, the designation of BDT by the Administrator has two aspects. First, for facilities that can reduce VOC emissions at a reasonable cost, BDT is the reduction of VOC emissions by 98 weight-percent or to 20 ppmv through the use of a thermal incinerator or a flare. For facilities that cannot reduce VOC emissions at a reasonable cost, BDT is no additional control.

To identify those facilities for which implementation of the emission reduction requirements would be unreasonably costly, a means of measuring the total cost to control VOC emissions from distillation facilities was developed. This means of measuring the cost to control is called the total resource effectiveness (TRE) index. Using the TRE approach, the standards would require each owner or operator of an affected facility with a TRE less than 1.0 to either reduce process vent stream VOC emissions by 98 weight-percent or to 20 ppmv by a method other than additional product recovery, whichever is less stringent, or for facilities with a TRE index greater than 1.0 to consistently maintain a value greater than 1.0.

Equations are included in the regulation for determining the TRE index of a vent stream from an affected facility. The process vent stream flow rate, total organic compound emission rate, net heating value, and corrosion properties (whether or not halogenated compounds are present) must be determined according to the specified Reference Methods in order to calculate the TRE index. These vent stream characteristics would be determined for the vent stream following the last recovery device (e.g., condenser, absorber, carbon adsorber).

The structure of the standards allows an affected facility with a TRE index value of less than 1.0 to add a recovery device or improve the existing recovery system efficiency so that the TRE value would increase above 1.0 and, therefore, emissions would not have to be reduced by 98 weight-percent or to 20 ppmv. Increased recovery efficiency for this purpose would have the advantages of achieving additional emission reductions, less energy usage, lower

costs and increased recovery of compounds or increased retention of products. The additional emission reduction could be as much as 30 percent more than current industry practice.

If a boiler or process heater were used to comply with the percent reduction or emission limit, the standards also would require that the distillation vent stream be introduced in the flame zone of the boiler or process heater. If a boiler or process heater were used to comply with the standards, the owner or operator would be required to monitor and record continuously the vent stream flow (using a flow indicator as described later) to the device and the firebox operating temperature. For boilers or process heaters of 44 MW (150 million Btu/hr) design heat input capacity or greater, no temperature monitoring is required but records (such as steam production records) would be required which would verify the periods of operation of the heat generating unit.

A steam-assisted flare, an air-assisted flare, and a flare with no assist are considered to be capable of achieving 98 weight-percent emission reduction and may be used to meet the standards, provided that the flares are operated in accordance with the requirements in 40 CFR 60.18. Each owner or operator complying with the standards by using a smokeless flare would be required to monitor continuously the presence of the pilot flame. Ultra-violet beam sensors or thermocouples are acceptable for this purpose. A flow indicator would also be required that provides a record of vent stream flow to the flare.

Each owner or operator complying with the standards by using an incinerator would be required to monitor continuously and record the firebox operating temperature or, if a catalytic oxidizer were used, the temperature before and after the catalyst bed. A vent stream flow indicator is also required for each affected facility and must be installed as close to the combustion device as possible but immediately before that vent stream is joined with any vent stream not part of the affected facility. Records of vent stream flow must be maintained. If the emission reduction requirements were achieved by other means, the owner or operator would be required to provide information describing the operation of the control device and the parameter(s) that indicate proper operation and maintenance of the device so that the enforcing agency could specify appropriate monitoring requirements.

Each owner or operator who complies with the standards by maintaining a

vent stream TRE index value above 1.0 would be required to monitor continuously and record specified operating parameters of the final piece of recovery equipment to ensure this TRE is consistently maintained.

Operating parameters are established during the initial (or most recent) performance test when VOC concentration is measured. Subsequent monitoring of these parameters is done to determine if their values have deviated from the values measured during the performance test. Depending on what the final recovery device is, the specified operating parameters are condenser exit (product side) operating temperature; absorber liquid temperature; specific gravity (or an alternative measure of absorbing liquid saturation, if approved by the enforcing agency); carbon adsorption bed temperature (after regeneration and completion of any cooling cycle(s)); and the mass flow rate of carbon bed regeneration steam. The owner or operator would also be required to maintain records of changes in production capacity; feedstock identity, catalyst identity; or of replacement, removal, or addition of recovery equipment. When any such change takes place, the owner or operator of the facility is required to recalculate the TRE index value to document that the facility continues to have a TRE index value above 1.0. Such recalculation can be based on test data reflecting the changes in the system, or best engineering estimates of the effects of the changes. If the recalculated TRE index for the facility is less than 1.0, the owner or operator would have to demonstrate compliance with the 98 weight-percent reduction or 20 ppmv emission limit within 180 days from the time of process change. Prior notice of any performance testing shall be given to EPA as required by the General Provisions of 40 CFR part 60. Performance testing may also be required on a case-by-case basis by the Administrator following any change to the recovery system in order to verify the status of the TRE index value for the facility.

The standards require that records of the operating parameters discussed above be maintained to ensure the proper operation and maintenance of combustion control equipment and recovery equipment used to reduce VOC emissions. Furthermore, records of instances where these monitored values exceed allowable limitations established during the most recent performance test must be maintained. In addition to maintaining these records,

an owner or operator must submit a semiannual report of the recorded exceedances. The requirement of semiannual reporting may be waived for affected facilities in States that have been delegated authority for enforcement provided EPA approves the reporting requirements or alternative means of compliance surveillance adopted by the State and the affected facilities comply with the requirements established by the State.

Summary of Environmental, Energy, and Economic Impacts

The environmental, energy, and economic impacts associated with the standards were projected by using a statistical representation of the industry's vent stream characteristics at existing plants. These characteristics include process vent stream flow rate, net heating value, total organic compound emission rate, and corrosion properties (presence or absence of halogenated compounds). It was assumed that the national distribution of these characteristics for new sources would be the same as the distribution for existing sources. In analyzing regulatory alternatives it was assumed that for all new, modified, and reconstructed facilities with a TRE index less than 1.0 either a flare or an incinerator would be applied to all nonhalogenated vent streams to meet the 98 weight-percent emission reduction requirement or 20 ppmv emission limit. Flaring and incineration were determined to be effective control devices that are universally applicable to all SOGMI distillation vent streams that do not contain halogenated compounds. In estimating the impacts of each alternative for nonhalogenated streams it was assumed that the least expensive of these two devices would be applied to individual vent streams. For distillation vent streams containing halogenated compounds, incineration was determined to be most widely applicable due primarily to the corrosion related problems that may occur if flares were used.

The actual energy, environmental, and economic impacts associated with the distillation NSPS are expected to be less than the impacts estimated here. One reason why these impacts would be lessened is that some facilities would upgrade existing recovery equipment to achieve a TRE index value higher than the cutoff, and, in fact, the standards are structured in such a way that encourages this. Such equipment generally has lower associated costs and energy use. Secondly, some facilities would use other combustion devices, such as boilers, or process

heaters which may be less expensive to apply and have a lower net energy consumption than flaring or incineration. A third reason is that some facilities could use existing devices to control emissions and not have to build new devices. The impacts estimated here assumed that new control devices would be built as a result of the standards. Although these factors contribute to the overstatement of the energy, and economic impacts associated with the standards, the degree of overstatement of the impacts cannot be quantified.

Under the standards, it is estimated that 32 percent of all new, modified, or reconstructed distillation facilities would have vent streams with TRE index values under the TRE cutoff of 1.0. If all of these facilities were controlled to 98 weight-percent, the projected national VOC emissions from all new, modified and reconstructed distillation operations would be reduced by an estimated 42,200 Mg/yr. This national VOC reduction would be approximately 82 percent beyond the emission level projected to occur under typical State Implementation Plans (SIP's).

It is projected that in the absence of the standards, uncontrolled VOC emissions would be reduced an average of 81 percent by State regulations. Eighty-one percent represents a weighted average of the regulations in States where new sources are projected to be built. The actual control required would vary considerably from State to State. Therefore, the impacts for individual plants would vary depending on the State where the affected facility is located.

Any increase in emissions of other air pollutants as a result of controlling VOC emissions would be negligible. There would be no direct solid waste impacts under the standards, and impacts on noise, space requirements, and availability of resources would be negligible.

No significant increase in total plant wastewater effluent is projected under the standard. There is no organic wastewater effluent associated with combustion devices themselves. Some facilities which may have a slight increase in wastewater are those which might choose to upgrade or add recovery devices to achieve a TRE above the 1.0 cutoff. Absorption and carbon adsorption are the only recovery techniques currently in use in the industry which have an associated organic wastewater effluent. Based on the available data, only a small percentage of distillation chemical

manufacturing operations are expected to employ these recovery techniques.

The fifth year energy requirements of the standards would be 600 terajoules per year (TJ/yr), (268 bbl of fuel oil equivalent/day), which are considered reasonable. The fifth year cost impacts of the standards are also considered reasonable. The fifth year national annualized cost for VOC control would be \$9.0 million (1978). The fifth year national capital cost for VOC control would be \$15.5 million (1978). As mentioned above, these impacts may be overstated because less costly and less energy intensive VOC reduction methods are likely to be used.

An economic analysis indicated that the costs associated with the standards could be passed on with little or no effect on the profitability of the industry. Projections made by employing process-specific assumptions indicate that the standards would not trigger product price increases in excess of 5 percent of the product price. Most of the chemicals screened (87 percent) would have a maximum price increase of 2 percent or less and 95 percent would have a maximum price increase of 3 percent or less. Finally, there would be no adverse effects on employment because the standards would not appreciably affect the sale or use of chemicals covered by these standards.

The environmental, energy, and cost impacts are discussed in greater detail in the two background information documents for the standards: "Distillation Operations in Synthetic Organic Chemical Manufacturing—Background Information for Proposed Standards" and "Distillation Operations in Synthetic Organic Chemical Manufacturing—Background Information for Promulgated Standards." (EPA-450/3-83-005a and EPA-450/3-83-005b).

Public Participation

Prior to proposal of the standards, interested parties were advised by public notice in the Federal Register (47 FR 26453) of a meeting of the National Air Pollution Control Techniques Advisory Committee to discuss the distillation VOC standards recommended for proposal. This meeting was held on July 21-22, 1982. The meeting was open to the public and each attendee was given an opportunity to comment on the standards recommended for proposal. The standards were proposed and published in the Federal Register on December 30, 1983 (48 FR 57538). The preamble to the proposed standards discussed the availability of the BID "Distillation

Operations in Synthetic Organic Chemical Manufacturing" (EPA-450/3-83-005a) which described in detail the regulatory alternatives considered and the impacts of those alternatives. Public comments were solicited at the time of proposal and, when requested, copies of the BID were distributed to interested parties. The proposal notice stated that a public hearing would be held, if requested, to provide interested persons the opportunity for oral presentation of data, views, or arguments concerning the proposed standards. No public hearing was requested. On May 16, 1985, the public comment period was reopened (50 FR 20446) for the purpose of allowing public comment on the results of a reanalysis of the costing procedures, the TRE equations and coefficients which are derived from these costing procedures, and the designation of affected facility. The reanalysis resulted from the acquisition of new information received in public comments and collected since proposal.

Thirty-five comment letters were received concerning issues relative to the proposed standards of performance for distillation operations in the SOCM. Thirty-four of these were in response to the proposed standards and one was in response to the revisions being considered to the costing procedures, TRE equations, and designation of affected facility. The comments have been carefully considered and, where determined to be appropriate by the Administrator, changes have been made in the standards.

Significant Comments and Changes to the Proposed Standards

Comments on the proposed standards were received from 25 industry representatives, one manufacturer of control equipment, one environmental group, and two State and Federal agencies. A detailed discussion of these comments and responses can be found in the BID for the promulgated standards which is referred to in the ADDRESSES section of this preamble. The summary of comments and responses in the BID serve as the basis for the revisions which have been made to the standards between proposal and promulgation.

The major comments and responses are summarized in this preamble. The comments have been divided into the following areas: Designation of Affected Facility; Applicability of the Standards; Selection of Best Demonstrated Technology; Selection of the TRE Cutoff; Costing Revisions; Change in Flare Specifications; and Exemptions.

All comments discussed here have been entered into Docket Number A-80-

25. Access to this docket is described in the ADDRESSES section of this preamble.

Designation of Affected Facility

At proposal, the affected facility was designated to be any single distillation unit with its associated recovery system that produces any of the chemicals listed in § 80.667. Other possible designations were identified at proposal and EPA specifically solicited comments concerning the proposed designation of affected facility. A number of commenters from the chemical industry disagreed with the proposed designation of affected facility. The commenters indicated that this designation is unrealistic and not representative of the way distillation units are operated within the industry. According to the commenters, distillation units are often physically linked together and to artificially separate them would be inappropriate. The commenters pointed out that some processes include a series of distillation units that can use a common recovery device. They concluded that in these cases, application of VOC reduction requirements and monitoring methods under the proposed designation of affected facility would be potentially confusing and costly.

The commenters prefer that an affected facility be designated as the recovery system with all associated distillation units. The commenters indicated that this designation would best reflect the way distillation units are used within the industry. Also, ambiguities in monitoring and testing requirements would be minimized when more than one distillation unit is tied to a common recovery system. The commenters stated that this designation would also allow a facility the flexibility to change operating conditions or equipment within a process unit in lieu of adding combustion devices. It was also stated that the flexibility associated with the recommended designation would not result in less environmental benefits compared to the proposed designation. Overall, the commenters felt that this designation would reduce monitoring, control, and hardware costs incurred by affected distillation facilities.

A comment from an environmental group indicated that the designation of affected facility contained in the proposed regulation conforms with the requirements of the CAA in so far as it does not allow two or more distillation units which are joined to a common recovery system to be interpreted as one facility. One commenter from industry is in favor of the designation of affected facility selected by EPA at proposal

because the commenter believes the approach will allow for continuous improvement of the air quality.

Based on these comments, the Agency reevaluated the designation of affected facility and presented the results of this reevaluation in the Federal Register on May 16, 1985 (50 FR 20446). Based on those results and the lack of adverse comment on that reevaluation, the designation of affected facility used in the standards has been changed to a single distillation unit that does not vent to a recovery device, a combination of a single unit with its associated recovery system, or the combination of two or more distillation units and the common recovery system to which their vent streams are discharged. For the majority of the industry, this change will have no effect because approximately 80 to 90 percent of the industry's distillation units exist as individual units. However, the effect of the designation change will be seen for the remaining 10 to 20 percent of the distillation units that share recovery devices. This change was not made to provide industry with operating flexibility; rather the new designation is estimated to result in greater emissions reduction. Also, as discussed below, the new designation would facilitate the implementation of the standards because, in some cases, the cost and complexity associated with determining a TRE index value will decrease.

The EPA estimates a greater reduction in national VOC emissions because of the change in the designation of affected facility. Greater reduction in emissions will occur with the new designation because for facilities where the TRE is less than 1.0, emissions from existing distillation units will also be controlled when new units are combined with existing units sharing a common recovery system. The Agency believes that a widespread evasion of the modification provisions would not occur under this designation. For example, a change that would be considered a modification is made to one distillation unit within a group of existing units. In order to avoid a modification, the common recovery system is upgraded so that no emissions increase results. However, operational or physical changes that would be considered modifications are rarely made to individual existing distillation units sharing a recovery device. Instead, it is more likely that new distillation units would be added to an existing group of units resulting in increased emissions.

In the event an owner added a distillation unit to an existing group of units ducted to the same recovery

system, it is unlikely the facility could avoid being considered a modification by offsetting the new distillation unit emissions somewhere else within the distillation group. This is because it would likely be technologically infeasible to reduce emissions sufficiently from other distillation units. Although some VOC reductions could occur through upgrading recovery equipment, it is unlikely that this reduction would result in a full offset of the new distillation unit emissions because the increased load on the recovery device (i.e., increase flow and VOC) would make the needed increase in VOC removal efficiency difficult to achieve. Thus, the likely result is that addition of a distillation unit to a group of joined units would bring the entire set under the coverage of the standards as a modified facility. Even though it is unlikely to occur, if the owners or operators of the facility could completely offset emissions from a new distillation unit by upgrading the recovery system, it would be the equivalent of 100 percent VOC control for that new distillation unit. This is 2 percent more than would be necessary if the individual units were designated as affected facilities and 98 weight-percent control were applied to the new unit.

The EPA believes the reconstruction provisions will not be avoided under the broad designation because major physical changes (i.e., reconstruction) to individual distillation units within a group of units rarely occurs within the industry. It is not likely that an owner or operator of an affected facility made up of a group of distillation units could replace one of the units and avoid being considered a reconstruction. Available data show this situation would not arise because the replacement of individual distillation units or pieces of recovery equipment is rare within the industry. This is because distillation units are expensive pieces of equipment which are designed to last a long time (Docket Item No. II-B-13). Moreover, the Agency has concluded that those few replacements which do occur often result from process changes or catastrophic events that would probably require replacement of most of the group of distillation units joined to a single recovery system. These changes would likely amount to a "reconstruction" of the facility as it is defined in these standards. Thus, in the small percentage of cases where distillation unit replacements occur, the facility would most likely fall under the coverage of the standards.

An incidental effect of this change in the affected facility designation is that

implementation of the standards would be made significantly easier. When two or more distillation units are joined to a common recovery system, determining a TRE index value is less complex and less costly than under the designation at proposal because fewer test sites are required to measure the vent stream characteristics needed to calculate a TRE index value. Under the designation set forth at proposal of these standards, it was required only that the portion of the combined vent stream contributed by the new, modified, or reconstructed distillation unit comply with the standards when it shares a recovery system with existing units. Therefore, the TRE index value was determined for the portion of the stream contributed by that unit only. This determination was complex and costly and was based upon an apportioning method using sampling sites located just downstream of the new unit and sampling sites located upstream and downstream of the common recovery system. These sampling data were to have been used to determine the overall efficiency of the common recovery system. This efficiency was then to have been applied to the vent stream from the new unit to determine its contribution to the total emissions from the common recovery system.

Under the final designation, the standards require only one sampling site located after the last recovery device to determine a TRE index value. No determination of recovery efficiency is needed because the entire vent stream is covered. Therefore, there is no need to determine which portion of the final vent stream from a group of distillation units is attributable to new, modified, or reconstructed distillation units and which portion is attributable to distillation units that have not been changed or added. This results in a performance test requirement that is less costly and less complex because fewer sampling sites and subsequent analyses are needed.

Applicability of Standards

Several commenters stated that three fertilizer chemicals, urea, urea ammonium nitrate (UAN), and ammonium carbamate should not be covered by the standards. They stated that the production of two of these chemicals does not involve the use of a distillation operation, while urea production uses flash evaporation which may be considered a distillation operation. It was also stated that production of these three chemicals does not result in significant VOC emissions. It was pointed out because of insignificant VOC emissions all affected

facilities that produce urea, UAN, or ammonium carbamate would probably comply with the standards by maintaining a TRE index value much greater than 1.0. The reasons given for the expected high TRE index value for all affected facilities producing these chemicals are the current and extensive use of very efficient recovery equipment and the large amounts of fuel enrichment needed for the low heating value vent streams. The commenters stated that compliance based on maintaining a TRE index value above the cutoff would still be costly because of the required monitoring, recordkeeping, reporting, and performance testing. The commenters felt it was unjustified that these compounds be on the SOCOMI list only because they are organic chemicals produced in large volume.

Based upon available information, EPA has decided to remove three fertilizer chemicals from the list in § 60.667. Urea, ammonium carbamate, and UAN are no longer listed in the distillation regulation. The distillation NSPS is not applicable to the production of UAN and ammonium carbamate because according to the information available to the Agency, no distillation operations are used to produce these chemicals. Although distillation operations are involved in the production of urea, EPA has removed urea from the list because no VOC emissions are expected to occur during distillation operations involved with urea production. The vent streams from these distillation units consist almost entirely of inert gases (e.g., nitrogen), water, ammonia, and urea particulate. The potential for VOC emissions would exist when formaldehyde based additives (FBA) and/or methanol are added before or during the distillation operation. However, available information indicates that at the majority of urea production facilities, FBA is injected into the product stream after the distillation operation. Therefore, there is no potential for formaldehyde emissions from distillation units within this type of production process. For process units where FBA are injected prior to or during distillation, the only organic emissions expected from the distillation unit would be particulate urea. Any formaldehyde should be completely reacted with urea to form methylenediurea. (Docket Item No. IV-E-14).

No information was available that indicates methanol is added before or during distillation. For these reasons, the Agency has decided to remove urea

from the list of chemicals covered by the final standards.

Several organic chemical and petroleum producers believe the standards should not apply to distillation facilities that do not produce any of the chemicals listed in the regulation as the main product. They said that only listed chemicals produced as products should be covered, while contaminants, by-products, and intermediates should not be included. It was also suggested that the standards should not apply to the recovery of waste or feedstock components. There was a request that EPA clarify whether a facility would be an affected facility if its process stream contains listed chemicals that are either sold, disposed of, used in the production of other chemicals, or recycled. Furthermore, it was suggested that the standards specify a minimum level for quantities of listed chemicals in a process stream that would cause the proposed regulation not to be applicable to distillation facilities that contain listed chemicals only as impurities in a process stream.

The EPA considers it appropriate for the standards to apply to any distillation facility within a process unit producing any of the listed chemicals as a product, by-product, co-product, or intermediate. The standards were developed from data on distillation facilities within process units that produce the chemicals listed in § 60.667 in any of the forms listed above. The cost of controlling emissions from the production of a listed chemical as a by-product, co-product, or intermediate is similar to the cost of controlling emissions from the production of that chemical as a product. Furthermore, the application of the standards to facilities producing any of the listed chemicals was found to be reasonable. Therefore, EPA considers the word product to also represent by-products, co-products, and intermediates. The standards are also applicable to distillation facilities that are used to recover waste or feedstock components as long as the facility is within a process unit producing any of the listed chemicals as a product. The main factor in determining if a listed chemical is produced as a product is the use of the chemical after the process unit. The EPA considers either of the following downstream uses as indicative of the production of a listed chemical as a product: (1) Produced for sale as that listed chemical, or (2) used in another process where that listed chemical is needed. However, if a listed chemical is only part of a mixed stream exiting a process unit and cannot be sold or used in another process as the listed

chemical, then that chemical is not considered to be produced as a product.

The EPA has decided that for the purposes of these standards it is more appropriate to determine applicability according to whether a listed chemical is intended to be produced as a product instead of setting a minimum concentration level of a listed chemical as a means of defining what may constitute production as a "product". It is not feasible to set any one concentration limit for listed chemicals below which the chemical is always an impurity or waste. It is not feasible because the necessary concentration or purity for a listed chemical to be considered a product can vary from site to site. For example, a chemical that is produced as 90 percent pure from one process may only be 80 percent pure to be considered as a product for another process. Therefore, resource requirements for establishing different concentration limits for all of the processes covered by the standards would be prohibitive because of the diversity and complexity of the SOCMI.

Selection of BDT

One commenter stated that catalytic oxidation can be an attractive alternative to thermal incineration. He indicated that although catalytic oxidation can be designed for high VOC reduction efficiencies, economic factors dictate whether these levels are practical. The commenter added that the 98 percent reduction efficiencies associated with the proposed standards would possibly require the use of uneconomically large catalyst volumes in catalytic incinerators or require the use of thermal incinerators. The commenter pointed out that 98 percent reduction efficiency may not result in a measurable improvement in the environment over the case of catalytic oxidation at an efficiency slightly lower than 98 percent. Furthermore, the use of thermal incineration may potentially entail the following detrimental effects: (a) A higher energy usage by the affected facilities; (b) an increase in NO_x emissions from the affected facilities using thermal incineration; and (c) a decrease in the international competitive position of domestic chemical producers with respect to foreign competition.

Another commenter suggested that those distillation facilities with vent streams above the TRE cutoff be considered for the applicability of emission reduction techniques other than flaring or incineration. A suggestion was made that technologies such as catalytic oxidation and carbon adsorption which involve lower costs

and energy requirements than flaring or incineration be evaluated for application to distillation facilities determined to have cost-effectiveness values above the cutoff. It was pointed out that although the emission reduction capabilities of catalytic oxidizers and recovery devices are not consistently as great as combustion, further emissions reductions could be achieved using these relatively low cost devices.

The EPA has determined that where catalytic oxidation units are applicable, they are capable of achieving 98 weight-percent reduction efficiency. However, catalytic oxidation for VOC emissions reduction has not been demonstrated to be universally applicable for all distillation process vent streams, and we cannot subcategorize facilities that can use catalytic oxidation on the basis of available information. Therefore, the costs of catalytic oxidation were not evaluated by the Agency. Catalytic oxidizers are limited by their inability to handle streams with high heating values because deactivation of the catalyst occurs at high temperatures. Catalysts can also be deactivated by compounds present in some waste streams, such as arsenic, sulfur, mercury, lead, zinc or tin.

The Agency did evaluate two control techniques universally applicable within the industry, thermal incineration and flaring. The Agency examined emissions data from incinerators already operating within the industry, as well as incinerator and flare tests conducted by the Agency and by chemical companies. All the new, well-operated incinerators and flares were found to achieve 98 percent reduction efficiency. From the available data the Agency determined many facilities could achieve 98 percent reduction efficiency at a reasonable cost using thermal incineration and flaring. The Agency has bounded the cost impacts associated with combustion devices by costing the most expensive devices: thermal incinerators and flares. Costs associated with these devices were found to be reasonable for facilities with TRE index values less than 1.0. Therefore, if a stream does exist whose constituents are such that a catalytic oxidizer is not applicable or not economical, a flare or thermal incinerator can be used.

The commenter is particularly concerned that EPA, by not allowing catalytic incinerators to substitute for thermal incinerators, will create a competitive disadvantage for U.S. plants vis-a-vis foreign competition. However, the Agency is not preventing the use of catalytic incinerators. They may be used if the emission reduction requirements are satisfied. Furthermore, if an owner

or operator chooses to use a thermal incinerator, no economic disadvantage should be created vis-a-vis foreign competition. Using reasonable control estimates, chemical price increases are expected to range from about 0 to about 4 percent.

The energy and environmental effects mentioned were considered in selecting thermal incineration as one of the control techniques upon which the impacts of the standards are based. The energy consumption and cost associated with thermal incineration were considered and found to be reasonable because these can be offset by the use of recuperative heat exchangers. The potential for increased NO_x emissions was also examined, but the rate of NO_x formation is expected to be low due to relatively low combustion temperatures and relatively short residence times associated with thermal incineration.

With respect to the suggestion of evaluating other techniques for use on facilities above the TRE cutoff, EPA is unable with available information to identify subcategories of distillation operations for which other VOC control techniques, such as catalytic oxidation and carbon adsorption, have been demonstrated to always apply. The applicability and effectiveness of these devices may be affected greatly by the vent stream flow rate, water content, temperature, VOC concentration, and VOC properties such as solubility, molecular weight, and liquid/vapor equilibrium. These characteristics vary widely within the SOCMI. Therefore, consideration of these devices in developing regulatory options was not feasible. Even with greater resources, this analysis would be infeasible because it would require a stream-by-stream characterization, ultimately resulting in the need to create a separate standard for each distillation facility within a process unit used to produce a listed chemical. The number of standards required to regulate the same number of sources would increase significantly. The Agency believes that such an approach to regulating the SOCMI distillation industry would be administratively infeasible and therefore environmentally counterproductive. In any event, as the commenter recognizes, proceeding now with this generic regulation based on thermal incineration and flaring at least represents an important first step in regulating distillation emissions and does not preclude later regulation of subcategories of distillation facilities should that become feasible. The EPA believes it has the authority to take this step by step approach under section 111.

See, e.g., *Group Against Smog and Pollution v. EPA*, 665 F.2d 1284. (D.C. Cir 1981).

Selection of the TRE Cutoff

Both an environmental group and industry commenters indicated that the \$1,900/Mg (1978\$) cutoff is unreasonable. The environmental group requested that the cutoff level be raised in order to cover a greater number of sources and a greater quantity of emissions. This recommendation is based on the commenter's perception that the inclusion of a greater number of sources would reduce public exposure to pollutants emitted by distillation facilities, including potentially hazardous pollutants. The environmental group requested that the cutoff be set at the point of diminishing returns, i.e., where cost effectiveness at individual facilities starts to sharply increase in relation to the amount of reduction in national emissions. The commenter stated that this rationale has not been applied for this NSPS in selecting the cutoff.

An industry representative considers the cutoff too high and stated that it is not adequately justified by the Agency. The commenter stated because EPA has greatly underestimated the total installed capital cost and the annual operating costs of control devices, the cutoff of \$1,900/Mg for VOC abatement is understated. The commenter also contended that the cutoff exceeds the \$1,000/Mg limit used in most other NSPS and suggested that a \$500/Mg cutoff is more than adequate to secure all meaningful reductions. The commenter stated that a plot of the data from the proposed regulation shows a point of sharply diminished national VOC emission reduction in the \$200 to \$600/Mg range with essentially no additional reduction in emissions achieved at any cost above that range.

The same commenter asserted that the \$1,900/Mg cutoff cannot be justified based on the presence of toxic constituents in the vent streams from distillation facilities. The commenter pointed out that control of toxic pollutants is the objective of standards developed under section 112 of the CAA (national emission standards for hazardous air pollutants (NESHAP)) and not standards such as these which are being proposed pursuant to section 111 of the Act (NSPS). The commenter also stated that the Agency has not adequately demonstrated that the presence of toxic pollutants in the emissions from distillation facilities are sufficiently different from the emissions from other VOC sources to justify a special consideration of their hazards.

Several commenters indicated that EPA had used the same \$1,900/Mg cutoff in the recently proposed air oxidation NSPS. They suggested this figure results from an EPA policy decision, not from a specific evaluation of the costs and impacts associated with the distillation NSPS.

The EPA believes that its decision to consider cost effectiveness as one indication of cost when determining the cutoff for applying the percent reduction standards reflects a reasonable interpretation of section 111 of the CAA. In analyzing the question of whether the consideration of cost effectiveness is appropriate, EPA looked to see whether Congress had "directly spoken to the precise question." *Chevron, U.S.A., Inc. v. NRDC*, 467 U.S. 837, 104 S.Ct. 2778, 2782 (1984). Section 111 requires EPA to promulgate NSPS limiting emissions to the level that reflects the best system of emission reduction "which (taking into consideration the cost of achieving such emission reduction, any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated." Section 111(a)(1). Nothing in either section 111 or elsewhere in the Act defines "the cost of achieving such emission reduction." The plain meaning of the phrase, however, is quite broad. This indicates that Congress implicitly delegated to EPA the authority to interpret the phrase to encompass a range of impacts, including costs of control in relation to the emission reductions achieved. Further, Congress did not specify any particular manner in which EPA was to take these costs "into consideration." Thus, absent a clear Congressional direction to the contrary discernible from the Act's history, *Chevron*, 104 S.Ct. at 2783, section 111 gives EPA authority to reject NSPS control options on the ground that their costs are unreasonably high in light of the emission reductions they achieve.

The EPA has reviewed the legislative history of section 111 and concluded that no contrary intent is discernible. Most important, the history contains no express repudiation of the use of cost effectiveness as one mechanism in considering costs when setting an NSPS.

For these reasons, EPA believes that Congress implicitly delegated the Agency the authority to decide how best to "take into consideration . . . cost" in setting NSPS and, if the Agency concluded it was appropriate, to consider cost effectiveness.

Further, in *Portland Cement Association v. Train*, 513 F.2d 506, 508 (D.C. Cir 1975), cert. denied, 416 U.S. 1025 (1975) ("Portland II"), the Court

stated that EPA may reject control options that result in a "gross disproportion between achievable reduction in emissions and cost of the control technique." Since the purpose of cost effectiveness analysis is to highlight such disproportion, this passage supports EPA's approach.

In selecting cutoffs related to applicability of NSPS, EPA looks at a variety of factors including: (1) The technical feasibility of additional control; (2) the economic feasibility associated with different control alternatives; (3) the magnitude of emission reductions associated with a control alternative (e.g., a slightly higher cutoff could be selected if it led to a substantial increase in the emission reduction achieved by the NSPS); (4) the cost effectiveness (C/E) of the control alternative in terms of annual cost per megagram (\$/Mg) of emissions reduced; (5) the quality of the cost estimates (e.g., worst case versus realistic estimates); (6) potential reductions in other air pollutants not specifically regulated by the NSPS resulting from a control alternative; and (7) the location of the sources (e.g., urban versus rural). Because these factors vary from industry to industry and, in some cases, within the same industry, decisions on the appropriate level of control are made on a category by category basis.

In evaluating the above factors, EPA found that the following considerations were key to the selection of the appropriate cutoff for SOCM distillation operations: (1) The cost effectiveness of NSPS for VOC emissions previously promulgated by EPA; (2) the fact that distillation vent streams contain compounds that are considered potentially toxic by EPA and that many of the facilities are located in urban areas; and (3) the likelihood that these maximum costs will not be incurred by industry.

A survey of the VOC standards for other source categories shows that the cost effectiveness of those control requirements has sometimes ranged as high as \$2,000/Mg. (See Docket Item No. IV-B-17.) The Agency's experience in implementing these standards reveals that NSPS requiring this level of control have proved a useful tool in bringing about the installation of much emissions control technology, significant reductions in emissions, and corresponding improvements in air quality, yet have not imposed costs that appear "grossly disproportionate" to the emission reduction achieved. *Portland II*, 513 F.2d at 508. Such an approach simply makes this NSPS consistent (as to dollars spent per metric ton of VOC

removed) with the existing body of NSPS regulations, all of which have either been promulgated without legal challenge or have been judicially upheld.

EPA also considered evidence that distillation streams include compounds that may be toxic.¹ Although that evidence has not yet resulted in a determination that those compounds should be listed as hazardous under Section 112, EPA considered this potential toxicity along with other relevant factors when choosing the cutoff. As stated in EPA's Air Toxics Strategy published in July 1985, the Agency will consider the likely toxic pollutant control benefits in the course of carrying out its responsibilities under Section 111. This strategy reduces emissions of potentially toxic compounds from new sources and from industries as their facilities are reconstructed or modified. This approach achieves significant reductions in these compounds of concern while the Agency evaluates them for regulation under section 112. The Agency disagrees with the argument that EPA has no authority to do this. The EPA is not attempting here to regulate streams based on a decision that they contain hazardous air pollutants within the meaning of section 112. Rather, the Agency is simply considering all available evidence within the framework of section 111. Section 111 does not attempt to restrict EPA's discretion to consider all relevant factors in making that decision, and certainly the potential toxicity of a stream is relevant to the control requirement selected. Many SOCM facilities are located in urban areas and, as a result, many people will be exposed to any hazardous air pollutants emitted from these facilities.

A third consideration in setting the cutoff at \$1,900/Mg is the likelihood that no facility will actually have to incur the costs implied by that cutoff. The reasons are: (a) Less expensive control systems may be used, thus reducing the costs and cost effectiveness incurred by individual facilities; (b) the cost estimates for thermal incinerators and natural gas prices are overstated; and (c) the inherent flexibility within the regulation encourages the use of product

recovery modifications that will significantly reduce the cost incurred by individual facilities that may have otherwise had to add a combustion device. The regulatory analysis assumes that each distillation operation process vent would have its own combustion device and would need separate ducting and support structures. It is expected, however, that some operations will share control systems with other process vents. The analysis also assumes that incinerators or flares will be used to reduce VOC emissions by 98 weight-percent. However, many facilities will opt to use boilers, process heaters or catalytic oxidizers. When these devices are used, the cost of control will be significantly reduced over the cost of thermal incineration. Data on current capital costs of thermal incinerators indicate that units are now available at substantially reduced costs compared to the costs used in developing these standards. Lower capital costs would reduce the annualized costs estimates, also, but not as significantly. This is an important consideration in selecting the appropriate cost-effectiveness cutoff. Another consideration is the fact that natural gas prices used to calculate the cost effectiveness for each stream are overstated by about 40 percent, even though they were updated after proposal (see following section on "Costing Revisions"). These conservative assumptions have resulted in higher cost and cost-effectiveness estimates than will actually occur. Finally, the standard encourages pollution prevention by not requiring 98 weight-percent reduction if a TRE index greater than 1.0 is maintained. The EPA believes that many facilities having a TRE index just below the 1.0 cutoff (equivalent to \$1,900/Mg) will upgrade product recovery to reduce VOC and raise their TRE index above 1.0. This will significantly reduce the cost of control incurred by the industry while reducing emissions and will also minimize the national energy impacts. A preliminary examination of the national statistical profile shows that because many facilities have the potential to reduce VOC emissions sufficiently to raise their TRE values above 1.0, the highest cost effectiveness that a facility will actually incur as a result of installing a combustion device is estimated to be approximately \$1,400/Mg.

The EPA believes that this process reflects a reasoned interpretation of the phrase "taking into consideration the cost of achieving such emission reduction," especially given the lack of clear Congressional guidance. The

¹ The agency has adequately documented that this is the case. (See Wehrum, W. et al., "Air Toxics Emission Patterns and Trends," Docket Item No. IV-A-3, and Registry of Toxic Effects of Chemical Substances, Docket Item No. IV-J-8.) Moreover, it is apparent that combustion of those streams will reduce those compounds proportionately. (See, e.g., "Thermal Incinerator Performance for NSPS," Docket Item No. II-B-3.) The Agency received no comment questioning this documentation.

commenters' arguments that EPA should have selected either a higher cutoff to provide for a greater degree of protection of the public health, or a lower cutoff because most VOC standards have lower costs in relation to the resulting emission reduction, fail to provide a more reasoned methodology for selecting the appropriate level. Instead, they merely reflect each of the competing goals reflected in Section 111's history, as described above.

Consideration of all of the above factors confirmed EPA's belief that a TRE value of 1.0 (i.e., \$1,900/Mg) represents an appropriate cutoff for determining which facilities must reduce VOC emissions by 98 weight-percent or to 20 ppmv. The cutoff is specific to the SOCM distillation operations source category and would not necessarily be appropriate for other source categories; therefore, it should not be viewed as a benchmark for other standards. It is not surprising, however, that the cost-effectiveness cutoff for distillation would be the same as for the air oxidation NSPS for a number of reasons. First, the same pollutant, (i.e., VOC) is being regulated. Second, the same general class of VOC emitters (i.e., SOCM) and similar types of process equipment (e.g., recovery equipment) are affected. Third, the same types of control techniques are applicable.

Costing Revisions

Several commenters from industry objected to the costing assumptions used in development of the standards. They stated that both the total installed capital cost and annualized costs for combusting VOC were greatly underestimated thus causing the TRE cutoff to be understated. Most comments pertained to flares. The following are some of the major equipment cost items identified as being either overlooked or not adequately treated by EPA: (a) A new pipe support system (pipe rack); (b) provision of steam, natural gas, and electrical services to the flares; (c) a TV camera and monitor to observe flare operations for smoke; and (d) an inadequate design basis for the flare height (maximum ground level heat intensity). Some of the major operating and maintenance components that industry identified as being either overlooked or not adequately treated by EPA included the following: (a) General plant overhead; (b) engineering and environmental costs; and (c) labor, supervision, and maintenance related costs.

The EPA reevaluated all costing assumptions (see Docket Items IV-B-7 and IV-B-8) and revised them where it

was justified. For example, the cost of a new pipe rack was added that is appropriate for use in routing flare services (e.g., electrical, gas and steam services) and the vent stream to the base of the control device. However, the pipe bridge cost recommended by industry was not used because it was found to be unrealistically high for servicing a single affected facility. The pipe bridge cost recommended by industry corresponded to a heavy-duty system capable of supporting many pipes from many process units and not just those pipes associated with the affected facility. In addition to the pipe rack, other costs such as those associated with bringing services such as gas and steam up to the flare were added. Based on recommendations from industry, the maximum ground level heat intensity for flares was adjusted from the original value used. This change had little effect on costs and resulted in increased flare heights in some cases; but in most cases, the flare height did not change from the height determined with the original heat intensity.

Some equipment additions recommended by industry were not included. For example, a TV camera and monitor were not included in the flare costing algorithms because they were judged to be unnecessary for ensuring the proper operation and maintenance of a flare. The EPA determined that the monitoring requirements in the regulation can be satisfied without the use of a TV camera and ancillary equipment. Constant temperature readings of a flare thermocouple are acceptable for monitoring the flare.

In reviewing costs, several equipment cost assumptions were changed that were not requested by industry. For example, changes were made in the length of duct needed to route a vent stream from the facility to a flare or incinerator. The original estimates of duct lengths were derived from information received from the chemical industry and were based on distances from existing distillation units to the nearest combustion devices. However, EPA determined that a new combustion device dedicated to a continuous flow vent stream at new plants would be necessary for some facilities covered by the standard. Since use of a new combustion device at a new plant should be the basis of costing, duct length criteria should be based on the most probable location of a new combustion device. This device is expected to be located as close to the process unit as possible but far enough away to provide safety. The length of

ducting included in the revised design criteria (200 feet for an incinerator and 300 feet for a flare) is based on insurance underwriter recommendations for locating open and enclosed combustion sources at a safe distance from process equipment.

The Agency also reviewed, and where appropriate, revised the operating and maintenance costs for flaring and incineration. The cost for labor involved with operation and maintenance was adjusted along with the cost for supervisory labor. Changes were also made in the overhead costs and engineering costs. The net heating value of natural gas used as a supplemental fuel was also modified and the new flare specifications, as discussed below, were incorporated into the costing algorithms. The cost of natural gas was also revised to take into account: (1) Regional variations in gas price, and (2) the projected effects of natural gas deregulation. However, due to a slower than anticipated rate of price increase the revised cost of natural gas is overstated by about 40 percent.

Change in Flare Specifications

A number of commenters from industry consider the flare specifications at proposal to be too restrictive. Commenters indicated that the proposed flare specifications would have a severe economic impact on some existing facilities that would be covered by these standards. This is because these plants already use flares designed and operated at velocities considerably higher than 60 ft/sec maximum exit velocity specification. The commenters stated that the exit velocity limitation of 60 ft/sec when the gas stream heating value is less than 1,000 Btu/scf could necessitate the replacement of existing flares designed and operated with velocities greater than 60 ft/sec. Commenters also mentioned that the construction of new flares to meet the velocity restrictions will be costly and in many cases completely infeasible. Furthermore, the commenters mentioned that not enough data were collected and not a broad enough range in test conditions was used by EPA in setting the specifications.

Because of the technical infeasibility of testing for the VOC reduction efficiency of flares, EPA determined it necessary to set operational specifications to ensure 98 weight-percent reduction efficiency. The original specifications were based upon the best data available at the time of proposal. Since proposal, operating specifications for flares used to comply with requirements in NSPS were added

to the General Provisions (51 FR 2701, January 21, 1986). The regulation has been revised to refer all owners or operators of affected facilities which use flares to comply with this NSPS to those requirements. These new specifications resolve the commenters' concerns about the specifications in the standards at proposal.

Other types of flares not demonstrated by EPA to have a 98 weight-percent reduction efficiency could be used in complying with the standards. As stated in the General Provisions, data can be submitted to the Agency to demonstrate 98 weight-percent reduction efficiency. If this were done, that flare could be allowed as a suitable control device.

The commenters were concerned that the exit velocity limitation of 60 ft/sec when the gas stream heating value is less than 1,000 Btu/scf could necessitate the replacement of existing flares designed and operated with velocities greater than 60 ft/sec. However, EPA's analysis shows the cost of constructing a complete new flare system to be reasonable. The EPA believes existing facilities coming under the standards would not have to completely replace these existing flares designed and operated with velocities greater than 60 ft/sec. Instead of building a new flare, only the existing flare tip and some auxiliary equipment would have to be changed to accommodate the 60 ft/sec limitation. Considering that many components of the existing flare could still be used, EPA has judged the cost of modifying and existing flare to be well below the cost estimated to construct an entirely new flare.

Exemptions

A suggestion was made to allow distillation facilities operated with a vent stream flow rate of less than 0.008 m³/min (0.3 scfm) to be exempt from coverage by the standards. The proposed regulation contained an exemption for any distillation facility which is designed with a maximum vent stream flow rate of less than 0.008 m³/min. The proposed provision constituted an exemption from meeting the specifications of the standards except for recordkeeping and reporting requirements. The commenters indicated the designed vent stream flow rate is usually different from the operated flow rate. Since vents are typically designed to accommodate the highest flow rate that might be experienced under typical operating conditions, operating flow rates are usually lower than design flow rates. The commenter pointed out that the suggested change would also clarify any ambiguity over vents that were

designed for 0.008 m³/min but are operated at higher flow rates.

The Agency recognizes that some distillation facilities may operate with vent stream flow rates above or below their designed level. Therefore, EPA has decided to exempt from coverage by the standards, except for recordkeeping and reporting requirements, those distillation facilities that operate with a vent stream flow rate less than 0.008 m³/min. The Agency will not exempt distillation facilities only because they were designed for a vent stream flow rate below 0.008 m³/min. The owner or operator of an affected facility that operates with a vent stream flow rate below 0.008 m³/min must notify EPA and demonstrate, with a performance tests, that the operating flow rate is less than 0.008 m³/min. Furthermore, any operational changes in the facility that may cause the operating vent stream flow rate to no longer be below the exemption level must be recorded along with a new flow rate measurement after the change has been made. No reporting to EPA is required until the low flow level has been exceeded and the report must contain the new flow rate measurement. If the vent stream flow rate exceeds the exemption level, the owner or operator must comply with the provisions of Section 60.662.

Several commenters requested more consideration be given to the complex nature of batch operations. They suggested the standards be applied on a case-by-case basis for batch distillation systems because the vent streams from these operations often have variable characteristics. For example, batch vacuum distillation may have an initially high vent stream flow rate as noncondensibles are removed from the products being purified followed by very low emissions for the rest of the cycle. The commenter stated that application of a recovery system for compliance with a TRE greater than 1.0 is likely to represent greater difficulty and cost impact on batch distillation facilities than anticipated by the Agency.

The EPA has decided to exclude batch distillation operations from this NSPS because BDT was evaluated with respect to continuous operations which have relatively constant vent stream flow rates and compositions within a process unit. Batch distillation typically emits a vent stream of variable flow rate and composition during its operation. As a result, BDT may not be applicable to vent streams from batch processes. The Agency is currently investigating the need for a separate NSPS for batch processes within the SOCMI.

One commenter suggested that an exemption from monitoring or recordkeeping requirements should be allowed for facilities showing a TRE index greater than a specified value. The Agency has decided that facilities with TRE index values greater than 8.0 would not fall below the cutoff without a process change. Thus, the Agency believes that the monitoring and recordkeeping requirements should not be imposed on such facilities. However, a process change in that facility would warrant a recalculation of the TRE index value to determine whether the value is still greater than 8.0 and the facility still qualifies for the exemption.

Paperwork Reduction Act

The reporting and recordkeeping requirements of the regulation are assessed in Standard Form 83 and an accompanying supporting statement which are included in the docket for public review. This documentation contains (1) A description of the reporting and recordkeeping required by the regulation and the 40 CFR Part 60 General Provisions, (2) the reasons for the requirements, (3) an evaluation of the major alternatives considered (including the use of existing sources of information), and (4) an estimate of the labor-hour burden of the requirements.

The General Provisions of 40 CFR part 60 and the standards would require three types of reports: (1) Notification requirements which enable the Agency to keep abreast of facilities subject to the standards, (2) reporting of initial performance test results and continuous monitoring system performance evaluations, and (3) semiannual reporting of exceedances or deviations from the monitored parameters from recovery equipment or combustion control devices. Analysis of these reporting requirements (II-F-2) indicates that they are both necessary and reasonable considering the savings in Agency time and resources required for effective enforcement.

The resources needed by the industry to maintain records and to prepare the reports for the first 3 years average about 82.7 person-years per year. The resources required by EPA and State and local agencies to process the reports and to maintain records for the first 3 years would average about 5.2 person-years per year.

Information collection requirements associated with this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et

seq., and have been assigned OMB control number 2060-0055.

Public reporting burden for this collection of information is estimated to be 168,668 hours per year, with an average of 715 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Information Policy Branch, PM-223, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

There are no reporting requirements by other governmental agencies for the information required by these standards which would result in overlapping requirements. In particular, there is no overlap with the reporting requirements of the Superfund program. The Superfund program was established in 1980 by the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, Pub. L. 96-510) and authorizes the Federal government to respond directly to releases (or threatened releases) of hazardous substances and pollutants or contaminants to any media that may endanger public health or welfare. Under the notification and liability provisions of section 103 (see 40 FR 23552, May 25, 1983), CERCLA requires that persons in charge of vessels or facilities from which hazardous substances have been released in quantities that are equal to or greater than the reportable quantities immediately notify the National Response Center of the release (800-424-8802; in Washington, DC, metropolitan area 202-426-2675). However, air releases which qualify as Federally-permitted releases such as VOC emissions that are regulated under section 111 of the CAA, are not subject to the notification or liability provisions of CERCLA unless the air releases are in excess of the allowable NSPS emissions by an amount equal to or greater than the reportable quantity; in this case, persons in charge must report the excess air releases to the National Response Center. (Reporting under CERCLA does not excuse the persons in charge from any responsibility, including reporting, or liability under the NSPS program).

Docket

The docket is an organized and complete file of all the information considered by EPA in the development of this rulemaking. The docket is a dynamic file, since material is added throughout the rulemaking development. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can intelligently and effectively participate in the rulemaking process. Along with the statement of basis and purpose of the proposed and promulgated standards and EPA responses to significant comments, the contents of the docket will serve as the record in case of judicial review except as noted in (Section 307(d)(7)(A)).

Miscellaneous

The effective date of this regulation is June 29, 1990. Section 111 of the Clean Air Act provides that standards of performance or revisions thereof become effective upon promulgation and apply to affected facilities, where construction, reconstruction, or modification commenced after December 30, 1983.

As prescribed by section 111, the promulgation of these standards was preceded by the Administrator's determination (40 CFR 60.16, 44 FR 49222, dated August 21, 1979) that these sources contribute significantly to air pollution which may reasonably be anticipated to endanger public health or welfare. In accordance with section 117 of the Act, publication of these promulgated standards was preceded by consultation with appropriate advisory committees, independent experts, and Federal departments and agencies.

This regulation will be reviewed 4 years from the date of promulgation as required by the CAA. This review will include an assessment of such factors as the need for integration with other programs, the existence of alternative methods, enforceability, improvements in emission control technology, and reporting requirements.

Section 317 of the CAA requires the Administrator to prepare an economic impact assessment for any new source standard of performance under section 111(b) of the Act. An economic impact assessment was prepared for this regulation and for other regulatory alternatives. All aspects of the assessment were considered in the formulation of the standards to ensure that cost was carefully considered in determining BDT. The economic impact

assessment is included in the BID for the proposed standards (EPA-450/3-83-005a). As explained in the section entitled *Selection of the TRE Cutoff* in the preamble to the proposed standards (48 FR 57538), cost per megagram of emission reduction was an important factor considered in selecting the proposed standards.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because: (1) The national annualized compliance costs, including capital charges resulting from the standards total less than \$100 million; (2) the standards do not cause a major increase in prices or production costs; and (3) the standards do not cause significant adverse effects on domestic competition, employment, investment, productivity, innovation or competition in foreign markets. This regulation was submitted to the OMB for review as required by Executive Order 12291. Any written communication between OMB and EPA pertaining to the standards has been put in Docket A-80-25. This docket is available for public inspection at the EPA's Central Docket Section, which is listed under the "ADDRESSES" section of this notice.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980 requires that adverse effects of all Federal regulations upon small businesses be identified. According to the current guidelines of the Small Business Administration, a small business that uses distillation operations in the manufacture of synthetic organic chemicals is one that has 750 employees or less. Currently, about 24 percent of the existing producers of the 211 affected chemicals (41 of 169 producers) are estimated to be small by this definition. Since it is estimated that about 600 plants would be affected by the standards in the first 5 years, all 41 small producers could potentially be affected by the NSPS.

Based upon an economic screening of the 211 chemicals, the control costs associated with the standards would be small since no chemical that is covered by these standards would have a cost increase of 5 percent or greater of the projected chemical price in 1987. Even under the conservative costing assumptions used in the economic screening analysis, 95 percent of the chemicals screened would have price increases less than 3 percent. Therefore,

no plants either large or small, would suffer significant economic impact under this NSPS.

It is difficult to estimate the specific effects of the NSPS on new businesses entering the industry. In general, however, if a company has the capital available to enter the industry, the NSPS will require only a small percentage increase in the capital needed for the project.

Pursuant to the provisions of 5 U.S.C.A. 605(b), I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 60

Air pollution control, Incorporation by reference, SOCMCI distillation unit operations, Reporting and recordkeeping requirements, Intergovernmental relations.

Dated: June 13, 1990.

William K. Reilly,
Administrator.

PART 60—[AMENDED]

40 CFR part 60 is amended as follows:

1. The authority citation for part 60 continues to read as follows:

Authority: Secs. 101, 111, 114, 116, and 301 of the Clean Air Act (CAA) as amended (42 U.S.C. 7401, 7411, 7414, 7416, 7601).

§ 60.17 [Amended]

2. Section 60.17 is amended in paragraph (a)(8) by removing the period at the end of the paragraph and adding the phrase "60.664(d)(2)(ii) and 60.664(d)(4)" and in paragraph (a)(38) by removing the period at the end of the paragraph and adding the phrase "and 60.664(d)(4)".

3. By adding subpart NNN as follows:

Subpart NNN—Standards of Performance for Volatile Organic Compound Emissions From Synthetic Organic Chemical Manufacturing Industry Distillation Operations

Sec.

60.660 Applicability and designation of affected facility.

60.661 Definitions.

60.662 Standards.

60.663 Monitoring of emissions and operations.

60.664 Test methods and procedures.

60.665 Reporting and recordkeeping requirements.

60.666 Reconstruction.

60.667 Chemicals affected by Subpart NNN.

60.668 Delegation of Authority.

Subpart NNN—Standards of Performance for Volatile Organic Compound (VOC) Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation Operations

§ 60.660 Applicability and designation of affected facility.

(a) The provisions of this subpart apply to each affected facility designated in paragraph (b) of this section that is part of a process unit that produces any of the chemicals listed in § 60.667 as a product, co-product, by-product, or intermediate, except as provided in paragraph (c).

(b) The affected facility is any of the following for which construction, modification, or reconstruction commenced after December 30, 1983:

(1) Each distillation unit not discharging its vent stream into a recovery system.

(2) Each combination of a distillation unit and the recovery system into which its vent stream is discharged.

(3) Each combination of two or more distillation units and the common recovery system into which their vent streams are discharged.

(c) Exemptions from the provisions of paragraph (a) of this section are as follows:

(1) Any distillation unit operating as part of a process unit which produces coal tar or beverage alcohols, or which uses, contains, and produces no VOC is not an affected facility.

(2) Any distillation unit that is subject to the provisions of Subpart DDD is not an affected facility.

(3) Any distillation unit that is designed and operated as a batch operation is not an affected facility.

(4) Each affected facility that has a total resource effectiveness (TRE) index value greater than 8.0 is exempt from all provisions of this subpart except for §§ 60.662; 60.664 (d), (e), and (f); and 60.665 (h) and (l).

(5) Each affected facility in a process unit with a total design capacity for all chemicals produced within that unit of less than one gigagram per year is exempt from all provisions of this subpart except for the recordkeeping and reporting requirements in paragraphs (j), (l)(6), and (n) of § 60.665.

(6) Each affected facility operated with a vent stream flow rate less than 0.008 scm/min is exempt from all provisions of this subpart except for the test method and procedure and the recordkeeping and reporting requirements in § 60.664(g) and paragraphs (i), (l)(5), and (o) of § 60.665.

[Note: The intent of these standards is to minimize the emissions of VOC through the

application of best demonstrated technology (BDT). The numerical emission limits in these standards are expressed in terms of total organic compounds (TOC), measured as TOC less methane and ethane. This emission limit reflects the performance of BDT.]

§ 60.661 Definitions.

As used in this subpart, all terms not defined here shall have the meaning given them in the Act and in subpart A of part 60, and the following terms shall have the specific meanings given them.

Batch distillation operation means a noncontinuous distillation operation in which a discrete quantity or batch of liquid feed is charged into a distillation unit and distilled at one time. After the initial charging of the liquid feed, no additional liquid is added during the distillation operation.

Boiler means any enclosed combustion device that extracts useful energy in the form of steam.

By compound means by individual stream components, not carbon equivalents.

Continuous recorder means a data recording device recording an instantaneous data value at least once every 15 minutes.

Distillation operation means an operation separating one or more feed stream(s) into two or more exit stream(s), each exit stream having component concentrations different from those in the feed stream(s). The separation is achieved by the redistribution of the components between the liquid and vapor-phase as they approach equilibrium within the distillation unit.

Distillation unit means a device or vessel in which distillation operations occur, including all associated internals (such as trays or packing) and accessories (such as reboiler, condenser, vacuum pump, steam jet, etc.), plus any associated recovery system.

Flame zone means the portion of the combustion chamber in a boiler occupied by the flame envelope.

Flow indicator means a device which indicates whether gas flow is present in a vent stream.

Halogenated vent stream means any vent stream determined to have a total concentration (by volume) of compounds containing halogens of 20 ppmv (by compound) or greater.

Incinerator means any enclosed combustion device that is used for destroying organic compounds and does not extract energy in the form of steam or process heat.

Process heater means a device that transfers heat liberated by burning fuel to fluids contained in tubes, including all

fluids except water that is heated to produce steam.

Process unit means equipment assembled and connected by pipes or ducts to produce, as intermediates or final products, one or more of the chemicals in § 60.667. A process unit can operate independently if supplied with sufficient fuel or raw materials and sufficient product storage facilities.

Product means any compound or chemical listed in § 60.667 that is produced for sale as a final product as that chemical, or for use in the production of other chemicals or compounds. By-products, co-products, and intermediates are considered to be products.

Recovery device means an individual unit of equipment, such as an absorber, carbon adsorber, or condenser, capable of and used for the purpose of recovering chemicals for use, reuse, or sale.

Recovery system means an individual recovery device or series of such devices applied to the same vent stream.

Total organic compounds (TOC) means those compounds measured according to the procedures in § 60.664(b)(4). For the purposes of measuring molar composition as required in § 60.664(d)(2)(i); hourly emissions rate as required in § 60.664(d)(5) and § 60.664(e); and TOC concentration as required in § 60.665(b)(4) and § 60.665(g)(4), those compounds which the Administrator has determined do not contribute appreciably to the formation of ozone are to be excluded. The compounds to be excluded are identified in Environmental Protection Agency's statements on ozone abatement policy for State Implementation Plans (SIP) revisions (42 FR 35314; 44 FR 32042; 45 FR 32424; 45 FR 48942).

TRE index value means a measure of the supplemental total resource requirement per unit reduction of TOC associated with an individual distillation vent stream, based on vent stream flow rate, emission rate of TOC net heating value, and corrosion properties (whether or not the vent stream is halogenated), as quantified by the equation given under § 60.664(e).

Vent stream means any gas stream discharged directly from a distillation facility to the atmosphere or indirectly to the atmosphere after diversion through other process equipment. The vent stream excludes relief valve discharges and equipment leaks including, but not limited to, pumps, compressors, and valves.

§ 60.662 Standards.

Each owner or operator of any affected facility shall comply with paragraph (a), (b), or (c) of this section for each vent stream on and after the date on which the initial performance test required by § 60.8 and § 60.664 is completed, but not later than 60 days after achieving the maximum production rate at which the affected facility will be operated, or 180 days after the initial start-up, whichever date comes first. Each owner or operator shall either:

(a) Reduce emissions of TOC (less methane and ethane) by 98 weight-percent, or to a TOC (less methane and ethane) concentration of 20 ppmv, on a dry basis corrected to 3 percent oxygen, whichever is less stringent. If a boiler or process heater is used to comply with this paragraph, then the vent stream shall be introduced into the flame zone of the boiler or process heater; or

(b) Combust the emissions in a flare that meets the requirements of § 60.18; or

(c) Maintain a TRE index value greater than 1.0 without use of VOC emission control devices.

§ 60.663 Monitoring of emissions and operations.

(a) The owner or operator of an affected facility that uses an incinerator to seek to comply with the TOC emission limit specified under § 60.662(a) shall install, calibrate, maintain, and operate according to manufacturer's specifications the following equipment:

(1) A temperature monitoring device equipped with a continuous recorder and having an accuracy of ± 1 percent of the temperature being monitored expressed in degrees Celsius or ± 0.5 °C, whichever is greater.

(i) Where an incinerator other than a catalytic incinerator is used, a temperature monitoring device shall be installed in the firebox.

(ii) Where a catalytic incinerator is used, temperature monitoring devices shall be installed in the gas stream immediately before and after the catalyst bed.

(2) A flow indicator that provides a record of vent stream flow to the incinerator at least once every hour for each affected facility. The flow indicator shall be installed in the vent stream from each affected facility at a point closest to the inlet of each incinerator and before being joined with any other vent stream.

(b) The owner or operator of an affected facility that uses a flare to seek to comply with § 60.662(b) shall install, calibrate, maintain and operate

according to manufacturer's specifications the following equipment:

(1) A heat sensing device, such as a ultra-violet beam sensor or thermocouple, at the pilot light to indicate the continuous presence of a flame.

(2) A flow indicator that provides a record of vent stream flow to the flare at least once every hour for each affected facility. The flow indicator shall be installed in the vent stream from each affected facility at a point closest to the flare and before being joined with any other vent stream.

(c) The owner or operator of an affected facility that uses a boiler or process heater to seek to comply with § 60.662(a) shall install, calibrate, maintain and operate according to the manufacturer's specifications in the following equipment:

(1) A flow indicator that provides a record of vent stream flow to the boiler or process heater at least once every hour for each affected facility. The flow indicator shall be installed in the vent stream from each distillation unit within an affected facility at a point closest to the inlet of each boiler or process heater and before being joined with any other vent stream.

(2) A temperature monitoring device in the firebox equipped with a continuous recorder and having an accuracy of ± 1 percent of the temperature being measured expressed in degrees Celsius or ± 0.5 °C, whichever is greater, for boilers or process heaters of less than 44 MW (150 million Btu/hr) heat input design capacity.

(3) Monitor and record the periods of operation of the boiler or process heater if the design heat input capacity of the boiler or process heater is 44 MW (150 million Btu/hr) or greater. The records must be readily available for inspection.

(d) The owner or operator of an affected facility that seeks to comply with the TRE index value limit specified under § 60.662(c) shall install, calibrate, maintain, and operate according to manufacturer's specifications the following equipment, unless alternative monitoring procedures or requirements are approved for that facility by the Administrator:

(1) Where an absorber is the final recovery device in the recovery system:

(i) A scrubbing liquid temperature monitoring device having an accuracy of ± 1 percent of the temperature being monitored expressed in degrees Celsius or ± 0.5 °C, whichever is greater, and a specific gravity monitoring device having an accuracy of ± 0.02 specific

gravity units, each equipped with a continuous recorder, or

(ii) An organic monitoring device used to indicate the concentration level of organic compounds exiting the recovery device based on a detection principle such as infrared, photoionization, or thermal conductivity, each equipped with a continuous recorder.

(2) Where a condenser is the final recovery device in the recovery system:

(i) A condenser exit (product side) temperature monitoring device equipped with a continuous recorder and having an accuracy of ± 1 percent of the temperature being monitored expressed in degrees Celsius or ± 0.5 °C, whichever is greater, or

(ii) An organic monitoring device used to monitor organic compounds exiting the recovery device based on a detection principle such as infra-red, photoionization, or thermal conductivity, each equipped with a continuous recorder.

(3) Where a carbon adsorber is the final recovery device unit in the recovery system:

(i) An integrating steam flow monitoring device having an accuracy of ± 10 percent, and a carbon bed temperature monitoring device having an accuracy of ± 1 percent of the temperature being monitored expressed in degrees Celsius or ± 0.5 °C, whichever is greater, both equipped with a continuous recorder, or

(ii) An organic monitoring device used to indicate the concentration level of organic compounds exiting the recovery device based on a detection principle such as infra-red, photoionization, or thermal conductivity, each equipped with a continuous recorder.

(e) An owner or operator of an affected facility seeking to demonstrate compliance with the standards specified under § 60.662 with control devices other than incinerator, boiler, process heater, or flare; or recovery device other than an absorber, condenser, or carbon absorber shall provide to the Administrator information describing the operation of the control device or recovery device and the process parameter(s) which would indicate proper operation and maintenance of the device. The Administrator may request further information and will specify appropriate monitoring procedures or requirements.

§ 60.664 Test methods and procedures.

(a) For the purpose of demonstrating compliance with § 60.662, all affected facilities shall be run at full operating conditions and flow rates during any performance test.

(b) The following methods in appendix A to this part, except as provided under § 60.8(b), shall be used as reference methods to determine compliance with the emission limit or percent reduction efficiency specified under § 60.662(a).

(1) Method 1 or 1A, as appropriate, for selection of the sampling sites. The control device inlet sampling site for determination of vent stream molar composition or TOC (less methane and ethane) reduction efficiency shall be prior to the inlet of the control device and after the recovery system.

(2) Method 2, 2A, 2C, or 2D, as appropriate, for determination of the gas volumetric flow rates.

(3) The emission rate correction factor, integrated sampling and analysis procedure of Method 3 shall be used to determine the oxygen concentration (%O₂) for the purposes of determining compliance with the 20 ppmv limit. The sampling site shall be the same as that of the TOC samples, and the samples shall be taken during the same time that the TOC samples are taken.

The TOC concentration corrected to 3 percent O₂ (C_c) shall be computed using the following equation:

$$C_c = C_{TOC} \frac{17.9}{20.9 - \%O_{2d}}$$

where:

C_c = Concentration of TOC corrected to 3 percent O₂, dry basis, ppm by volume.
C_{TOC} = Concentration of TOC (minus methane and ethane), dry basis, ppm by volume.
%O_{2d} = Concentration of O₂, dry basis, percent by volume.

(4) Method 18 to determine the concentration of TOC in the control device outlet and the concentration of TOC in the inlet when the reduction efficiency of the control device is to be determined.

(i) The sampling time for each run shall be 1 hour in which either an integrated sample or four grab samples shall be taken. If grab sampling is used then the samples shall be taken at 15-minute intervals.

(ii) The emission reduction (R) of TOC (minus methane and ethane) shall be determined using the following equation:

$$R = \frac{E_i - E_o}{E_i} \times 100$$

where:

R = Emission reduction, percent by weight.
E_i = Mass rate of TOC entering the control device, kg TOC/hr.

E_o = Mass rate of TOC discharged to the atmosphere, kg TOC/hr.

(iii) The mass rates of TOC (E_i, E_o) shall be computed using the following equations:

$$E_i = K_2 \left(\sum_{j=1}^n C_{ij} M_{ij} \right) Q_i$$

$$E_o = K_2 \left(\sum_{j=1}^n C_{oj} M_{oj} \right) Q_o$$

where:

C_{ij}, C_{oj} = Concentration of sample component "j" of the gas stream at the inlet and outlet of the control device, respectively, dry basis, ppm by volume.
M_{ij}, M_{oj} = Molecular weight of sample component "j" of the gas stream at the inlet and outlet of the control device, respectively, g/g-mole (lb/lb-mole).
Q_i, Q_o = Flow rate of gas stream at the inlet and outlet of the control device, respectively, dscm/min (dscf/hr).
K₂ = Constant, 2.494 × 10⁻⁶ (1/ppm) (g-mole/scm) (kg/g) (min/hr), where standard temperature for (g-mole/scm) is 20 °C.

(iv) The TOC concentration (C_{TOC}) is the sum of the individual components and shall be computed for each run using the following equation:

$$C_{TOC} = \sum_{j=1}^n C_j$$

where:

C_{TOC} = Concentration of TOC (minus methane and ethane), dry basis, ppm by volume.
C_j = Concentration of sample components "j", dry basis, ppm by volume.
n = Number of components in the sample.

(5) When a boiler or process heater with a design heat input capacity of 44 MW (150 million Btu/hour) or greater is used to seek to comply with § 60.662(a), the requirement for an initial performance test is waived, in accordance with § 60.8(b). However, the Administrator reserves the option to require testing at such other times as may be required, as provided for in section 114 of the Act.

(c) When a flare is used to seek to comply with § 60.662(b), the flare shall comply with the requirements of § 60.18.

(d) The following test methods in appendix A to this part, except as provided under § 60.8(b), shall be used for determining the net heating value of

the gas combusted to determine compliance under § 60.662(b) and for determining the process vent stream TRE index value to determine compliance under § 60.662(c).

(1)(i) Method 1 or 1A, as appropriate, for selection of the sampling site. The sampling site for the vent stream flow rate and molar composition determination prescribed in § 60.664(d) (2) and (3) shall be, except for the situations outlined in paragraph (d)(1)(ii) of this section, prior to the inlet of any control device, prior to any post-distillation dilution of the stream with air, and prior to any post-distillation introduction of halogenated compounds into the process vent stream. No transverse site selection method is needed for vents smaller than 4 inches in diameter.

(ii) If any gas stream other than the distillation vent stream from the affected facility is normally conducted through the final recovery device.

(A) The sampling site for vent stream flow rate and molar composition shall be prior to the final recovery device and prior to the point at which the nondistillation stream is introduced.

(B) The efficiency of the final recovery device is determined by measuring the TOC concentration using Method 18 at the inlet to the final recovery device after the introduction of any nondistillation vent stream and at the outlet of the final recovery device.

(C) This efficiency is applied to the TOC concentration measured prior to the final recovery device and prior to the introduction of the nondistillation stream to determine the concentration of TOC in the distillation vent stream from the final recovery device. This concentration of TOC is then used to perform the calculations outlined in § 60.664(d) (4) and (5).

(2) The molar composition of the process vent stream shall be determined as follows:

(i) Method 18 to measure the concentration of TOC including those containing halogens.

(ii) ASTM D1946-77 (incorporation by reference as specified in § 60.17 of this part) to measure the concentration of carbon monoxide and hydrogen.

(iii) Method 4 to measure the content of water vapor.

(3) The volumetric flow rate shall be determined using Method 2, 2A, 2C, or 2D, as appropriate.

(4) The net heating value of the vent stream shall be calculated using the following equation:

$$H_T = K_1 \left(\sum_{j=1}^n C_j H_j \right)$$

where:

H_T = Net heating value of the sample, MJ/scm, where the net enthalpy per mole of vent stream is based on combustion at 25 °C and 760 mm Hg, but the standard temperature for determining the volume corresponding to one mole is 20 °C, as in the definition of Q_s (vent stream flow rate).

K_1 = Constant, 1.740×10^{-7}

(1)	(g-mole)	(MJ),
ppm	scm	kcal

where standard temperature for

(g-mole)
scm

is 20 °C.

C_j = Concentration on a wet basis of compound j in ppm, as measured for organics by Method 18 and measured for hydrogen and carbon monoxide by ASTM D1946-77 (incorporation by reference as specified in § 60.17 of this part) as indicated in § 60.664(d)(2).

H_j = Net heat of combustion of compound j, kcal/g-mole, based on combustion at 25 °C and 760 mm Hg.

The heats of combustion of vent stream components would be required to be determined using ASTM D2382-76 (incorporation by reference as specified in § 60.17 of this part) if published

values are not available or cannot be calculated.

(5) The emission rate of TOC in the vent stream shall be calculated using the following equation:

$$E_{TOC} = K_2 \left[\sum_{j=1}^n C_j M_j \right] Q_s$$

where:

E_{TOC} = Emission rate of TOC in the sample, kg/hr.

K_2 = Constant, 2.494×10^{-6} (l/ppm) (g-mole/scm) (kg/g) (min/hr), where standard temperature for (g-mole/scm) is 20 °C.

C_j = Concentration on a basis of compound j in ppm as measured by Method 18 as indicated in § 60.664(d)(2).

M_j = Molecular weight of sample j, g/g-mole.

Q_s = Vent stream flow rate (scm/min) at a temperature of 20 °C.

(6) The total process vent stream concentration (by volume) of compounds containing halogens (ppmv, by compound) shall be summed from the individual concentrations of compounds containing halogens which were measured by Method 18.

(e) For purposes of complying with § 60.662(c) the owner or operator of a facility affected by this subpart shall calculate the TRE index value of the vent stream using the equation for incineration in paragraph (e)(1) of this section for halogenated vent streams. The owner or operator of an affected facility with a nonhalogenated vent stream shall determine the TRE index value by calculating values using both the incinerator equation in (e)(1) and the flare equation in (e)(2) of this section and selecting the lower of the two values.

(1) The equation for calculating the TRE index value of a vent stream controlled by an incinerator is as follows:

$$TRE = \frac{1}{E_{TOC}} [a + b(Q_s)^{0.88} + c(Q_s) + d(Q_s)(H_T) + e(Q_s)^{0.88}(H_T)^{0.88} + f(Y_s)^{0.5}]$$

(i) where for a vent stream flow rate (scm/min) at a standard temperature of 20 °C that is greater than or equal to 14.2 scm/min:

TRE = TRE index value.

Q_s = Vent stream flow rate (scm/min) at a standard temperature of 20 °C.

H_T = Vent stream net heating value (MJ/scm), where the net enthalpy per mole of vent stream is based on combustion at 25 °C and 760 mm Hg, but the standard temperature for determining the volume corresponding to one mole is 20 °C as in the definition of Q_s .

$Y_s = Q_s$ for all vent stream categories listed in Table 1 except for Category E vent streams where $Y_s = (Q_s)(H_T)/3.6$.

E_{TOC} = Hourly emissions of TOC reported in kg/hr.

a, b, c, d, e, and f are coefficients.

The set of coefficients that apply to a vent stream can be obtained from Table 1.

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TABLE 1. DISTILLATION NSPS TRE COEFFICIENTS FOR VENT STREAMS CONTROLLED BY AN INCINERATOR

DESIGN CATEGORY A1. FOR HALOGENATED PROCESS VENT STREAMS, IF $0 \leq \text{NET HEATING VALUE (MJ/scm)} \leq 3.5$:

Q_s = Vent Stream Flow rate (scm/min)	a	b	c	d	e	f
$14.2 < Q_s \leq 18.8$	19.18370	0.27580	0.75762	-0.13064	0	0.01025
$18.8 < Q_s \leq 699$	20.00563	0.27580	0.30387	-0.13064	0	0.01025
$699 < Q_s \leq 1400$	39.87022	0.29973	0.30387	-0.13064	0	0.01449
$1400 < Q_s \leq 2100$	59.73481	0.31467	0.30387	-0.13064	0	0.01775
$2100 < Q_s \leq 2800$	79.59941	0.32572	0.30387	-0.13064	0	0.02049
$2800 < Q_s \leq 3500$	99.46400	0.33456	0.30387	-0.13064	0	0.02291

DESIGN CATEGORY A2. FOR HALOGENATED PROCESS VENT STREAMS, IF NET HEATING VALUE > 3.5 MJ/scm:

Q_s = Vent Stream Flow rate (scm/min)	a	b	c	d	e	f
$14.2 < Q_s \leq 18.8$	18.84466	0.26742	-0.20044	0	0	0.01025
$18.8 < Q_s \leq 699$	19.66658	0.26742	-0.25332	0	0	0.01025
$699 < Q_s \leq 1400$	39.19213	0.29062	-0.25332	0	0	0.01449
$1400 < Q_s \leq 2100$	58.71768	0.30511	-0.25332	0	0	0.01775
$2100 < Q_s \leq 2800$	78.24323	0.31582	-0.25332	0	0	0.02049
$2800 < Q_s \leq 3500$	97.76879	0.32439	-0.25332	0	0	0.02291

DESIGN CATEGORY B. FOR NONHALOGENATED PROCESS VENT STREAMS, IF $0 \leq \text{NET HEATING VALUE (MJ/scm)} \leq 0.48$:

Q_s = Vent Stream Flow rate (scm/min)	a	b	c	d	e	f
$14.2 < Q_s \leq 1340$	8.54245	0.10555	0.09030	-0.17109	0	0.01025
$1340 < Q_s \leq 2690$	16.94386	0.11470	0.09030	-0.17109	0	0.01449
$2690 < Q_s \leq 4040$	25.34528	0.12042	0.09030	-0.17109	0	0.01775

DESIGN CATEGORY C. FOR NONHALOGENATED PROCESS VENT STREAMS, IF $0.48 < \text{NET HEATING VALUE (MJ/scm)} \leq 1.9$:

Q_s = Vent Stream Flow rate (scm/min)	a	b	c	d	e	f
$14.2 < Q_s \leq 1340$	9.25233	0.06105	0.31937	-0.16181	0	0.01025
$1340 < Q_s \leq 2690$	18.36363	0.06635	0.31937	-0.16181	0	0.01449
$2690 < Q_s \leq 4040$	27.47492	0.06965	0.31937	-0.16181	0	0.01775

DESIGN CATEGORY D. FOR NONHALOGENATED PROCESS VENT STREAMS, IF $1.9 < \text{NET HEATING VALUE (MJ/scm)} \leq 3.6$:

Q_s = Vent Stream Flow rate (scm/min)	a	b	c	d	e	f
$14.2 < Q_s \leq 1180$	6.67868	0.06943	0.02582	0	0	0.01025
$1180 < Q_s \leq 2370$	13.21633	0.07546	0.02582	0	0	0.01449
$2370 < Q_s \leq 3550$	19.75398	0.07922	0.02582	0	0	0.01775

DESIGN CATEGORY E. FOR NONHALOGENATED PROCESS VENT STREAMS, IF NET HEATING VALUE > 3.6 MJ/scm:

Y_s = Dilution Flow rate (scm/min) = $(Q_s)(H_T)/3.6$	a	b	c	d	e	f
$14.2 < Y_s \leq 1180$	6.67868	0	0	-0.00707	0.02220	0.01025
$1180 < Y_s \leq 2370$	13.21633	0	0	-0.00707	0.02412	0.01449
$2370 < Y_s \leq 3550$	19.75398	0	0	-0.00707	0.02533	0.01775

(ii) where for a vent stream flow rate (scm/min) at a standard temperature of 20 °C that is less than 14.2 scm/min:

TRE = TRE index value.

$Q_s = 14.2$ scm/min.

$H_T = (\text{FLOW})(\text{HVAL})/14.2$.

where by the following inputs are used:

FLOW = Vent stream flow rate (scm/min), at a standard temperature of 20 °C.

HVAL = Vent stream net heating value (MJ/scm), where the net enthalpy per mole of vent stream is based on combustion at 25 °C and 760 mm Hg, but the standard temperature for determining the volume corresponding to one mole is 20 °C as in definition of Q_s .

$Y_s = 14.2$ scm/min for all vent stream categories listed in Table 1 except for Category E vent streams, where $Y_s = (14.2)(H_T)/3.6$.

E_{TOC} = Hourly emissions of TOC reported in kg/hr.

a, b, c, d, e, and f are coefficients.

The set of coefficients that apply to a vent stream can be obtained from Table 1.

(2) The equation for calculating the TRE index value of a vent stream controlled by a flare is as follows:

$$\text{TRE} = \frac{1}{E_{\text{TOC}}} \left[a(Q_s) + b(Q_s)^a + c(Q_s)(H_T) + d(E_{\text{TOC}}) + e \right]$$

where:

TRE = TRE index value.

E_{TOC} = Hourly emission rate of TOC reported in kg/hr.

Q_s = Vent stream flow rate (scm/min) at a standard temperature of 20 °C.

H_T = Vent stream net heating value (MJ/scm) where the net enthalpy per mole of offgas is based on combustion at 25 °C and 760 mm Hg, but the standard temperature for determining the volume corresponding to one mole is 20 °C as in the definition of Q_s .

a, b, c, d, and e are coefficients.

The set of coefficients that apply to a vent stream shall be obtained from Table 2.

TABLE 2.—DISTILLATION NSPS TRE COEFFICIENTS FOR VENT STREAMS CONTROLLED BY A FLARE

	a	b	c	d	e
$H_T < 11.2$ MJ/scm	2.25	0.288	-0.193	-0.0051	2.08
$H_T > 11.2$ MJ/scm	0.309	0.0619	-0.0043	-0.0034	2.08

(f) Each owner or operator of an affected facility seeking to comply with § 60.660(c)(4) or § 60.662(c) shall recalculate the TRE index value for that affected facility whenever process changes are made. Examples of process changes include changes in production capacity, feedstock type, or catalyst type, or whenever there is replacement, removal, or addition of recovery equipment. The TRE index value shall be recalculated based on test data, or on best engineering estimates of the effects of the change to the recovery system.

(1) Where the recalculated TRE index value is less than or equal to 1.0, the owner or operator shall notify the Administrator within 1 week of the recalculation and shall conduct a performance test according to the methods and procedures required by § 60.664 in order to determine compliance with § 60.662(a). Performance tests must be conducted as soon as possible after the process change but no later than 180 days from the time of the process change.

(2) Where the initial TRE index value is greater than 8.0 and the recalculated TRE index value is less than or equal to 8.0 but greater than 1.0, the owner or operator shall conduct a performance test in accordance with § 60.8 and

§ 60.664 and shall comply with § 60.663, § 60.664 and § 60.665. Performance tests must be conducted as soon as possible after the process change but no later than 180 days from the time of the process change.

(g) Any owner or operator subject to the provisions of this subpart seeking to demonstrate compliance with § 60.660(c)(6) shall use Method 2, 2A, 2C, or 2D as appropriate, for determination of volumetric flow rate.

§ 60.665 Reporting and Recordkeeping Requirements.

(a) Each owner or operator subject to § 60.662 shall notify the Administrator of the specific provisions of § 60.662 (§ 60.662 (a), (b), or (c)) with which the owner or operator has elected to comply. Notification shall be submitted with the notification of initial start-up required by § 60.7(a)(3). If an owner or operator elects at a later date to use an alternative provision of § 60.662 with which he or she will comply, then the Administrator shall be notified by the owner or operator 90 days before implementing a change and, upon implementing the change, a performance test shall be performed as specified by § 60.664 within 180 days.

(b) Each owner or operator subject to the provisions of this subpart shall keep an up-to-date, readily accessible record of the following data measured during each performance test, and also include the following data in the report of the initial performance test required under § 60.8. Where a boiler or process heater with a design heat input capacity of 44 MW (150 million Btu/hour) or greater is used to comply with § 60.662(a), a report containing performance test data need not be submitted, but a report containing the information in § 60.665(b)(2)(i) is required. The same data specified in this section shall be submitted in the reports of all subsequently required performance tests where either the emission control efficiency of a control device, outlet concentration of TOC, or the TRE index value of a vent stream from a recovery system is determined.

(1) Where an owner or operator subject to the provisions of this subpart seeks to demonstrate compliance with § 60.662(a) through use of either a thermal or catalytic incinerator:

(i) The average firebox temperature of the incinerator (or the average temperature upstream and downstream of the catalyst bed for a catalytic incinerator), measured at least every 15 minutes and averaged over the same

time period of the performance testing, and

(ii) The percent reduction of TOC determined as specified in § 60.664(b) achieved by the incinerator, or the concentration of TOC (ppmv, by compound) determined as specified in § 60.664(b) at the outlet of the control device on a dry basis corrected to 3 percent oxygen.

(2) Where an owner or operator subject to the provisions of this subpart seeks to demonstrate compliance with § 60.662(a) through use of a boiler or process heater:

(i) A description of the location at which the vent stream is introduced into the boiler or process heater, and

(ii) The average combustion temperature of the boiler or process heater with a design heat input capacity of less than 44 MW (150 million Btu/hr) measured at least every 15 minutes and averaged over the same time period of the performance testing.

(3) Where an owner or operator subject to the provisions of this subpart seeks to demonstrate compliance with § 60.662(b) through use of a smokeless flare, flare design (i.e., steam-assisted, air-assisted or nonassisted), all visible emission readings, heat content determinations, flow rate measurements, and exit velocity determinations made during the performance test, continuous records of the flare pilot flame monitoring, and records of all periods of operations during which the pilot flame is absent.

(4) Where an owner or operator subject to the provisions of this subpart seeks to demonstrate compliance with § 60.662(c):

(i) Where an absorber is the final recovery device in the recovery system, the exit specific gravity (or alternative parameter which is a measure of the degree of absorbing liquid saturation, if approved by the Administrator), and average exit temperature, of the adsorbing liquid measured at least every 15 minutes and averaged over the same time period of the performance testing (both measured while the vent stream is normally routed and constituted), or

(ii) Where a condenser is the final recovery device in the recovery system, the average exit (product side) temperature measured at least every 15 minutes and averaged over the same time period of the performance testing while the vent stream is routed and constituted normally, or

(iii) Where a carbon adsorber is the final recovery device in the recovery system, the total steam mass flow measured at least every 15 minutes and averaged over the same time period of the performance test (full carbon bed

cycle), temperature of the carbon bed after regeneration (and within 15 minutes of completion of any cooling cycle(s)), and duration of the carbon bed steaming cycle (all measured while the vent stream is routed and constituted normally), or

(iv) As an alternative to § 60.665(b)(4) ((i), (ii) or (iii)), the concentration level or reading indicated by the organics monitoring device at the outlet of the absorber, condenser, or carbon adsorber, measured at least every 15 minutes and averaged over the same time period of the performance testing while the vent stream is normally routed and constituted.

(v) All measurements and calculations performed to determine the TRE index value of the vent stream.

(c) Each owner or operator subject to the provisions of this subpart shall keep up-to-date, readily accessible continuous records of the equipment operating parameters specified to be monitored under § 60.663 (a) and (c) as well as up-to-date, readily accessible records of periods of operation during which the parameter boundaries established during the most recent performance test are exceeded. The Administrator may at any time require a report of these data. Where a combustion device is used to comply with § 60.662(a), periods of operation during which the parameter boundaries established during the most recent performance tests are exceeded are defined as follows:

(1) For thermal incinerators, all 3-hour periods of operation during which the average combustion temperature was more than 28 °C (50 °F) below the average combustion temperature during the most recent performance test at which compliance with § 60.662(a) was determined.

(2) For catalytic incinerators, all 3-hour periods of operation during which the average temperature of the vent stream immediately before the catalyst bed is more than 28 °C (50 °F) below the average temperature of the vent stream during the most recent performance test at which compliance with § 60.662(a) was determined. The owner or operator also shall record all 3-hour periods of operation during which the average temperature difference across the catalyst bed is less than 80 percent of the average temperature difference of the device during the most recent performance test at which compliance with § 60.662(a) was determined.

(3) All 3-hour periods of operation during which the average combustion temperature was more than 28 °C (50 °F) below the average combustion temperature during the most recent

performance test at which compliance with § 60.662(a) was determined for boilers or process heaters with a design heat input capacity of less than 44 MW (150 million Btu/hr).

(4) For boilers or process heaters, whenever there is a change in the location at which the vent stream is introduced into the flame zone as required under § 60.662(a).

(d) Each owner or operator subject to the provisions of this subpart shall keep up to date, readily accessible continuous records of the flow indication specified under § 60.663(a)(2), § 60.663(b)(2) and § 60.663(c)(1), as well as up-to-date, readily accessible records of all periods when the vent stream is diverted from the control device or has no flow rate.

(e) Each owner or operator subject to the provisions of this subpart who uses a boiler or process heater with a design heat input capacity of 44 MW or greater to comply with § 60.662(a) shall keep an up-to-date, readily accessible record of all periods of operation of the boiler or process heater. (Examples of such records could include records of steam use, fuel use, or monitoring data collected pursuant to other State or Federal regulatory requirements.)

(f) Each owner or operator subject to the provisions of this subpart shall keep up-to-date, readily accessible continuous records of the flare pilot flame monitoring specified under § 60.663(b), as well as up-to-date, readily accessible records of all periods of operations in which the pilot flame is absent.

(g) Each owner or operator subject to the provisions of this subpart shall keep up-to-date, readily accessible continuous records of the equipment operating parameters specified to be monitored under § 60.663(d), as well as up-to-date, readily accessible records of periods of operation during which the parameter boundaries established during the most recent performance test are exceeded. The Administrator may at any time require a report of these data. Where an owner or operator seeks to comply with § 60.662(c), periods of operation during which the parameter boundaries established during the most recent performance tests are exceeded are defined as follows:

(1) Where an absorber is the final recovery device in a recovery system, and where an organic compound monitoring device is not used:

(i) All 3-hour periods of operation during which the average absorbing liquid temperature was more than 11 °C (20 °F) above the average absorbing liquid temperature during the most recent performance test, or

(ii) All 3-hour periods of operation during which the average absorbing liquid specific gravity was more than 0.1 unit above, or more than 0.1 unit below, the average absorbing liquid specific gravity during the most recent performance test (unless monitoring of an alternative parameter, which is a measure of the degree of absorbing liquid saturation, is approved by the Administrator, in which case he will define appropriate parameter boundaries and periods of operation during which they are exceeded).

(2) Where a condenser is the final recovery device in a system, and where an organic compound monitoring device is not used, all 3-hour periods of operation during which the average exit (product side) condenser operating temperature was more than 6 °C (11 °F) above the average exit (product side) operating temperature during the most recent performance test.

(3) Where a carbon adsorber is the final recovery device in a system, and where an organic compound monitoring device is not used:

(i) All carbon bed regeneration cycles during which the total mass steam flow was more than 10 percent below the total mass steam flow during the most recent performance test, or

(ii) All carbon bed regeneration cycles during which the temperature of the carbon bed after regeneration (and after completion of any cooling cycle(s)) was more than 10 percent greater than the carbon bed temperature (in degrees Celsius) during the most recent performance test.

(4) Where an adsorber, condenser, or carbon absorber is the final recovery device in the recovery system and where an organic compound monitoring device is used, all 3-hour periods of operation during which the average organic compound concentration level or reading of organic compounds in the exhaust gases is more than 20 percent greater than the exhaust gas organic compound concentration level or reading measured by the monitoring device during the most recent performance test.

(h) Each owner or operator of an affected facility subject to the provisions of this subpart and seeking to demonstrate compliance with § 60.662(c) shall keep up-to-date, readily accessible records of:

(1) Any changes in production capacity, feedstock type, or catalyst type, or of any replacement, removal or addition of recovery equipment or a distillation unit;

(2) Any recalculation of the TRE index value performed pursuant to § 60.664(f); and

(3) The results of any performance test performed pursuant to the methods and procedures required by § 60.664(d).

(i) Each owner or operator of an affected facility that seeks to comply with the requirements of this subpart by complying with the flow rate cutoff in § 60.660(c)(6) shall keep up-to-date, readily accessible records to indicate that the vent stream flow rate is less than 0.008 m³/min and of any change in equipment or process operation that increases the operating vent stream flow rate, including a measurement of the new vent stream flow rate.

(j) Each owner or operator of an affected facility that seeks to comply with the requirements of this subpart by complying with the design production capacity provision in § 60.660(c)(5) shall keep up-to-date, readily accessible records of any change in equipment or process operation that increases the design production capacity of the process unit in which the affected facility is located.

(k) Each owner and operator subject to the provisions of this subpart is exempt from the quarterly reporting requirements contained in § 60.7(c) of the General Provisions.

(l) Each owner or operator that seeks to comply with the requirements of this subpart by complying with the requirements of § 60.660 (c)(4), (c)(5), or (c)(6) or § 60.662 shall submit to the Administrator semiannual reports of the following recorded information. The initial report shall be submitted within 6 months after the initial start-up date.

(1) Exceedances of monitored parameters recorded under § 60.665 (c) and (g).

(2) All periods recorded under § 60.665(d) when the vent stream is diverted from the control device or has no flow rate.

(3) All periods recorded under § 60.665(e) when the boiler or process heater was not operating.

(4) All periods recorded under § 60.665(f) in which the pilot flame of the flare was absent.

(5) Any change in equipment or process operation that increases the operating vent stream flow rate above the low flow exemption level in § 60.660(c)(6), including a measurement of the new vent stream flow rate, as recorded under § 60.665(i). These must be reported as soon as possible after the change and no later than 180 days after the change. A performance test must be completed with the same time period to verify the recalculated flow value and to obtain the vent stream characteristics of heating value and E_{TOC}. The performance test is subject to the requirements of § 60.8 of the General

Provisions. Unless the facility qualifies for an exemption under the low capacity exemption status in § 60.660(c)(5), the facility must begin compliance with the requirements set forth in § 60.662.

(6) Any change in equipment or process operation, as recorded under § 60.665(j), that increases the design production capacity above the low capacity exemption level in § 60.660(c)(5) and the new capacity resulting from the change for the distillation process unit containing the affected facility. These must be reported as soon as possible after the change and no later than 180 days after the change. A performance test must be completed within the same time period to obtain the vent stream flow rate, heating value, E_{TOC}. The performance test is subject to the requirements of § 60.8 of the General Provisions. Unless the facility qualifies for an exemption under the low flow exemption in § 60.660(c)(6), the facility must begin compliance with the requirements set forth in § 60.662.

(7) Any recalculation of the TRE index value, as recorded under § 60.665(h).

(m) The requirements of § 60.665(l) remain in force until and unless EPA, in delegating enforcement authority to a State under section 111(c) of the Act, approves reporting requirements or an alternative means of compliance surveillance adopted by such State. In that event, affected sources within the State will be relieved of the obligation to comply with § 60.665(l), provided that they comply with the requirements established by the State.

(n) Each owner or operator that seeks to demonstrate compliance with § 60.660(c)(5) must submit to the Administrator an initial report detailing the design production capacity of the process unit.

(o) Each owner or operator that seeks to demonstrate compliance with § 60.660(c)(6) must submit to the Administrator an initial report including a flow rate measurement using the test methods specified in § 60.664.

(p) The Administrator will specify appropriate reporting and recordkeeping requirements where the owner or operator of an affected facility complies with the standards specified under § 60.662 other than as provided under § 60.663(a), (b), (c) and (d).

§ 60.666 Reconstruction.

For purposes of this subpart "fixed capital cost of the new components," as used in § 60.15, includes the fixed capital cost of all depreciable components which are or will be replaced pursuant to all continuous

programs of component replacement which are commenced within any 2-year period following December 30, 1983. For purposes of this paragraph, "commenced" means that an owner or operator has undertaken a continuous program of component replacement or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of component replacement.

(Approved by the Office of Management and Budget under the control number 2080-0055)

§ 60.667 Chemicals affected by Subpart NNN.

Chemical name	CAS No.*
Acetaldehyde	75-07-0
Acetaldehyde, tech	107-89-1
Acetic acid	64-19-7
Acetic anhydride	108-24-7
Acetone	67-64-1
Acetone cyanohydrin	75-86-5
Acetylene	74-86-2
Acrylic acid	79-10-7
Acrylonitrile	107-13-1
Adipic acid	124-04-9
Adiponitrile	111-69-3
Alcohols, C-11 or lower, mixtures	
Alcohols, C-12 or higher, mixtures	
Allyl chloride	107-05-1
Amylene	513-35-9
Amylenes, mixed	
Aniline	62-53-3
Benzene	71-43-2
Benzenesulfonic acid	98-11-3
Benzenesulfonic acid C ₁₀₋₁₈ -alkyl derivatives, sodium salts	68081-81-2
Benzoic acid, tech	65-85-0
Benzyl chloride	100-44-7
Biphenyl	92-52-4
Bisphenol A	80-05-7
Bromotone	76-08-4
1,3-Butadiene	106-99-0
Butadiene and butene fractions	
n-Butane	106-97-8
1,4-Butanediol	110-63-4
Butanes, mixed	
1-Butene	106-98-9
2-Butene	25167-67-3
Butenes, mixed	
n-Butyl acetate	123-86-4
Butyl acrylate	141-32-2
n-Butyl alcohol	71-36-3
sec-Butyl alcohol	78-92-2
tert-Butyl alcohol	75-85-0
Butylbenzyl phthalate	85-88-7
Butylene glycol	107-88-0
tert-Butyl hydroperoxide	75-91-2
2-Butyne-1,4-diol	110-65-6
Butyraldehyde	123-72-8
Butyric anhydride	106-31-0
Caprolactam	105-60-2
Carbon disulfide	75-15-0
Carbon tetrabromide	558-13-4
Carbon tetrachloride	56-23-5
Chlorobenzene	108-90-7
2-Chloro-4-(ethylamino)-6-(isopropylamino)-s-triazine	1912-24-9
Chloroform	67-66-3
p-Chloronitrobenzene	100-00-5
Chloroprene	126-99-8
Citric acid	77-92-9
Crotonaldehyde	4170-30-0
Crotonic acid	3724-65-0
Cumene	96-82-8
Cumene hydroperoxide	80-15-9

Chemical name	CAS No.*
Cyanuric chloride	108-77-0
Cyclohexane	110-82-7
Cyclohexane, oxidized	68512-15-2
Cyclohexanol	108-93-0
Cyclohexanone	108-94-1
Cyclohexanone oxime	100-84-1
Cyclohexene	110-83-8
1,3-Cyclopentadiene	542-92-7
Cyclopropane	75-19-4
Diacetone alcohol	123-42-2
Dibutylated aromatic concentrate	
1,4-Dichlorobutene	110-57-6
3,4-Dichloro-1-butene	64037-54-3
Dichlorodifluoromethane	75-71-8
Dichlorodimethylsilane	75-78-5
Dichlorodifluoromethane	75-43-4
-Dichlorohydrin	96-23-1
Diethanolamine	111-42-2
Diethylbenzene	25340-17-4
Diethylene glycol	111-46-6
Di-n-heptyl-n-nonyl undecyl phthalate	85-68-7
Di-isodecyl phthalate	26761-40-0
Diisononyl phthalate	28553-12-0
Dimethylamine	124-40-3
Dimethyl terephthalate	120-61-6
2,4-Dinitrotoluene	121-14-2
2,4-(and 2,6)-dinitrotoluene	121-14-2
	606-20-2
Diethyl phthalate	117-81-7
Dodecene	25378-22-7
Dodecylbenzene, non linear	
Dodecylbenzenesulfonic acid	27176-87-0
Dodecylbenzenesulfonic acid, sodium salt	25155-30-0
Epichlorohydrin	106-89-8
Ethanol	64-17-5
Ethanolamine	141-43-5
Ethyl acetate	141-78-6
Ethyl acrylate	140-88-5
Ethylbenzene	100-41-4
Ethyl chloride	75-00-3
Ethyl cyanide	107-12-0
Ethylene	74-85-1
Ethylene dibromide	106-93-4
Ethylene dichloride	107-06-2
Ethylene glycol	107-21-1
Ethylene glycol monobutyl	111-76-2
Ethylene glycol monoethyl ether	110-80-5
Ethylene glycol monoethyl ether acetate	111-15-9
Ethylene glycol monomethyl ether	109-86-4
Ethylene oxide	75-21-8
2-Ethylhexanal	26266-68-2
2-Ethylhexyl alcohol	104-78-7
(2-Ethylhexyl) amine	104-75-6
Ethylmethylbenzene	25550-14-5
6-Ethyl-1,2,3,4-tetrahydro 9,10-antra-cenedione	15547-17-8
Formaldehyde	50-00-0
Glycerol	56-81-5
n-Heptane	142-82-5
Heptenes (mixed)	
Hexadecyl chloride	
Hexamethylene diamine	124-09-4
Hexamethylene diamine adipate	3323-53-3
Hexamethylenetetramine	100-97-0
Hexane	110-54-3
2-Hexenedinitrile	13042-02-9
3-Hexenedinitrile	1119-85-3
Hydrogen cyanide	74-90-8
Isobutane	75-28-5
Isobutanol	78-83-1
Isobutylene	115-11-7
Isobutyraldehyde	78-84-2
Isodecyl alcohol	25339-17-7
Isocetyl alcohol	26952-21-6
Isopentane	78-78-4
Isophthalic acid	121-91-5
Isoprene	78-79-5
Isopropanol	67-63-0
Ketene	463-51-4
Linear alcohols, ethoxylated, mixed	

Chemical name	CAS No.*
Linear alcohols, ethoxylated, and sulfated, sodium salt, mixed	
Linear alcohols, sulfated, sodium salt, mixed	
Linear alkylbenzene	123-01-3
Magnesium acetate	142-72-3
Maleic anhydride	108-31-6
Melamine	108-78-1
Mesityl oxide	141-79-7
Methacrylonitrile	126-98-7
Methanol	67-56-1
Methylamine	74-89-5
ar-Methylbenzenediamine	25376-45-8
Methyl chloride	74-87-3
Methylene chloride	75-09-2
Methyl ethyl ketone	78-93-3
Methyl iodide	74-88-4
Methyl isobutyl ketone	108-10-1
Methyl methacrylate	80-62-6
2-Methylpentane	107-83-5
1-Methyl-2-pyrrolidone	872-50-4
Methyl tert-butyl ether	
Naphthalene	91-20-3
Nitrobenzene	98-95-3
1-Nonene	27215-95-8
Nonyl alcohol	143-08-08
Nonylphenol	25154-52-3
Nonylphenol, ethoxylated	9016-45-9
Octene	25377-83-7
Oil-soluble petroleum sulfonate, calcium salt	
Oil-soluble petroleum sulfonate, sodium salt	
Pentaerythritol	115-77-5
n-Pentane	109-66-0
3-Pentenitrile	4635-87-4
Pentenenes, mixed	109-67-1
Perchloroethylene	127-18-4
Phenol	108-95-2
1-Phenylethyl hydroperoxide	3071-32-7
Phenylpropane	103-65-1
Phosgene	75-44-5
Phthalic anhydride	85-44-9
Propane	74-98-6
Propionaldehyde	123-38-6
Propionic acid	79-09-4
Propyl alcohol	71-23-8
Propylene	115-07-1
Propylene chlorohydrin	78-89-7
Propylene glycol	57-55-6
Propylene oxide	75-58-9
Sodium cyanide	143-33-9
Sorbitol	50-70-4
Styrene	100-42-5
Terephthalic acid	100-21-0
1,1,2,2-Tetrachloroethane	79-34-5
Tetraethyl lead	78-00-2
Tetrahydrofuran	109-99-9
Tetra (methyl-ethyl) lead	
Tetramethyl lead	75-74-1
Toluene	108-88-3
Toluene-2,4-diamine	95-80-7
Toluene-2,4-(and, 2,6)-diisocyanate (80/20 mixture)	26471-62-5
Tribromomethane	75-25-2
1,1,1-Trichloroethane	71-55-6
1,1,2-Trichloroethane	79-00-5
Trichloroethylene	79-01-6
Trichlorofluoromethane	75-69-4
1,1,2-Trichloro-1,2,2-trifluoroethane	76-13-1
Triethanolamine	102-71-6
Triethylene glycol	112-27-8
Vinyl acetate	108-05-4
Vinyl chloride	75-01-4
Vinylidene chloride	75-35-4
m-Xylene	108-38-3
o-Xylene	95-47-6
p-Xylene	106-42-3
Xylenes (mixed)	1330-20-7
m-Xylenol	576-26-1

* CAS numbers refer to the Chemical Abstracts Registry numbers assigned to specific chemicals, isomers, or mixtures of chemicals. Some isomers or mixtures that are covered by the standards do not have CAS numbers assigned to them. The standards apply to all of the chemicals listed, whether CAS numbers have been assigned or not.

§ 60.668 Delegation of authority.

(a) In delegating implementation and enforcement authority to a State under § 111(c) of the Act, the authorities contained in paragraph (b) of this section shall be retained by the Administrator and not transferred to a State.

(b) Authorities which will not be delegated to States: § 60.663(e).

[FR Doc. 90-14265 Filed 6-28-90; 8:45 am]

BILLING CODE 6560-50-M

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 60****[AD-FRL-2823-6]****RIN 2060-AB55****Standards of Performance for New Stationary Sources; Volatile Organic Compound (VOC) Emissions From the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed rule and notice of public hearing.

SUMMARY: The proposed standards would limit the emissions of VOC from new, modified, and reconstructed SOCMI reactor process facilities. The proposed standards implement section 111 of the Clean Air Act (CAA) and are based on the Administrator's determination that emissions from the SOCMI cause or contribute significantly to air pollution which may reasonably be anticipated to endanger public health or welfare. The intent is to require new, modified, and reconstructed SOCMI reactor process facilities to control emissions to the level achievable by the best demonstrated system of continuous emission reduction, considering costs, nonair quality health and environmental impacts, and energy requirements.

A public hearing will be held, if requested, to provide interested parties an opportunity for oral presentation of data, views, or arguments concerning the proposed standards.

DATES: *Comments.* Comments must be received on or before September 12, 1990.

Public Hearing. If anyone contacts EPA requesting to speak at a public hearing by July 20, 1990, a public hearing will be held on August 7, 1990 beginning at 10:00 a.m. Persons interested in attending the hearing should call Ms. Ann Eleanor at (919) 541-5578 to verify that a hearing will be held.

Request to Speak at Public Hearing. Persons wishing to present oral testimony must contact EPA by July 20, 1990.

Incorporated by Reference. The incorporation by reference of certain publications in these standards will be approved by the Director of the Federal Register as of the date of publication of the final rule.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate if possible) to: Central Docket Section (LE-131), Attention: Docket Number A-

63-29, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Public Hearing. If anyone contacts EPA requesting a public hearing, it will be held at the EPA's Office of Administration Auditorium, Research Triangle Park, North Carolina. Persons interested in attending the hearing or wishing to present oral testimony should notify Ms. Julia Stevens, Standards Development Branch (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5578.

Background Information Document. The background information document (BID) for the proposed standards may be obtained from the U.S. EPA Library (MD-35), Research Triangle Park, North Carolina 27711, telephone number (919) 541-2777. Please refer to "Reactor Processes in Synthetic Organic Chemical Manufacturing Industry—Background Information for Proposed Standards," EPA/450-3/85-005a.

Docket. Docket Number A-63-29, containing supporting information used in developing the proposed standards, is available for public inspection and copying between 8 a.m. and 4 p.m., Monday through Friday, at EPA's Central Docket Section, South Conference Center, room 4, 401 M Street, SW., Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT:

Mr. Doug Bell or Ms. Debbie Stackhouse, telephone (919) 541-5568 and 5258, respectively, concerning regulatory decisions. Mr. Robert E. Rosensteel or Mr. Leslie B. Evans, telephone (919) 541-5608 and 5410, respectively, concerning technical aspects of the industry and control technologies. The address for the above contacts is Emission Standards Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION:**I. Introduction****A. New Source Performance Standards—General**

New source performance standards (NSPS or "standards") implement section 111 of the CAA. The NSPS are issued for categories of sources which cause, or contribute significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare. They apply to new stationary sources of emissions, i.e., sources whose construction, reconstruction, or modification begins after a standard for them is proposed.

The NSPS require these sources to control emissions to the level achievable by "best demonstrated technology" or "BDT," which is defined in item B.6 below.

B. The NSPS Decision Scheme

An NSPS is the product of a series of decisions related to certain key elements for the source category being considered for regulation. The elements identified in this "decision scheme" are generally the following:

1. Source category to be regulated—usually an entire industry but can be a process or group of processes within an industry.
2. Pollutant(s) to be regulated—the particular substance(s) emitted by the source that the standard will control.
3. Regulatory approach—the general strategy for regulating sources.
4. Affected facility—the pieces or groups of equipment that comprise the sources to which the standards will apply.

5. Emission points to be regulated—within the affected facility, the specific physical location emitting pollutants (e.g., vents, stacks, and equipment leaks).

6. Best demonstrated technology—the technology on which the Agency will base the standards, i.e.,

* * * application of the best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, and any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated. [Section 111(a)(1)].

7. Format for the standards—the form in which the standards are expressed, i.e., as a percent reduction in emissions, as pollutant concentrations or as equipment standards.

8. Actual standards—based on what BDT can achieve, the maximum permissible emissions.

Note: In general, standards do not require that a specific technology be used to achieve them. The source owner/operator may select the method for achieving the pollution control required.)

9. Other considerations—in addition, this NSPS includes: modification/reconstruction considerations, performance test methods, monitoring requirements, and reporting and recordkeeping requirements.

C. Overview of This Preamble

This preamble will:

1. Summarize the important features of this NSPS by discussing the conclusions reached with respect to

each of the elements in the decision scheme.

2. Describe the estimated environmental, energy, and economic impacts of this NSPS.

3. Present a rationale for each of the decisions in the decision scheme.

4. Discuss administrative requirements relevant to this action.

II. Summary of the NSPS

A. Source Category to be Regulated

The source category to be regulated is the SOCMI. These standards affect the reactor process subcategory of the SOCMI. A reactor process is the means by which one or more synthetic organic chemicals are produced by the reaction of feedstocks or chemical intermediates other than air. (Processes using air are covered in a separate NSPS.)

B. Pollutant to be Regulated

The proposed standards would control emissions of VOC from reactor process vent streams.

C. Regulatory Approach

Rather than develop a separate standard for each chemical produced in reactor processes, this proposal is a single standard covering all reactor processes producing one or more designated high production volume chemicals. These 173 high production volume chemicals account for about 90 percent of total chemical production from the SOCMI and are estimated to account for the majority of the emissions from reactor processes as well. This same approach was used in the two previous process vent standards for the SOCMI (distillation, 48 FR 57538, and air oxidation, 48 FR 48932).

D. Affected Facility

The facility affected by the proposed standards is designated as a single reactor with its own recovery system (if any) or the combination of two or more reactors and the common recovery system they share.

E. Emission Points to be Regulated

The emission points to be regulated include VOC discharged from chemical reactors either directly from a reactor or indirectly after passing from one or more reactors through one or more product recovery devices.

F. Best Demonstrated Technology

A variety of control techniques are capable of reducing VOC from reactor process vent stream by 98 weight-percent or to 20 parts per million by volume (ppmv). However, certain combustion controls (thermal incinerators and flares) are the only

devices that are applicable to all reactor process vent streams. The selection of the best device for an individual stream depends on the process vent stream characteristics and other site-specific considerations. Each of these two devices, however, is capable of achieving 98 weight-percent VOC destruction or 20 ppmv.

For facilities where the costs of combustion control by thermal incinerators or flares are reasonable, BDT is 98 weight-percent control or reduction to 20 ppmv, whichever is less stringent. For facilities where the costs to control VOC by combustion are not reasonable, BDT is no additional control. The standards do not require that a specific device or technology be used to comply with the emission reduction requirements. Rather, any control can be used as long as it can be demonstrated that it is at least as effective as BDT at reducing VOC emissions. The EPA is unable, with available information, to identify subcategories of reactor processes for which VOC control techniques other than incineration or flaring (e.g., catalytic oxidation and carbon adsorption) have been demonstrated to always apply. The applicability of these devices may be greatly affected by the vent stream flow rate, water content, temperature, VOC concentration and VOC properties such as solubility, molecular weight, and liquid/vapor equilibrium. These characteristics vary widely within the SOCMI. Therefore, consideration of these devices in developing regulatory options was not feasible. Even with greater resources, this analysis would be infeasible because it would require a stream-by-stream characterization, ultimately resulting in the need to create a separate standard for each reactor process facility. The number of standards required to regulate the same number of sources would increase significantly. The Agency believes that such an approach to regulating SOCMI reactor processes would be administratively infeasible and therefore environmentally counter-productive. This approach does not preclude later regulation of subcategories of reactor process facilities should that become feasible.

G. Format of the Standards

The format of the proposed standards would allow owners and operators of affected facilities to comply with the standards by controlling emissions or by maintaining or adding product recovery devices. Where the cost effectiveness of controls is reasonable, a percentage reduction or concentration limit,

whichever is less stringent, would apply. Where the costs of control are unreasonably high, no additional emission reduction would be required. The cutoff is calculated by using a set of equations and coefficients in the regulation that produce a total resource effectiveness (TRE) index value. A TRE index value of 1.0 or less indicates the need to control. This format permits owners and operators of facilities near, but below, the 1.0 cutoff to change the process operation or equipment in order to reduce emissions and, thereby, raise the TRE index value to a point above the cutoff.

H. Actual Standards

Sources with TRE values of 1.0 or below would be subject to the following: (1) A 98 weight-percent reduction of the total organic compounds (minus methane and ethane) in the reactor vent stream, or a reduction to 20 ppmv, whichever is less stringent; (2) if a boiler or process heater is used to comply with the standards, the reactor vent stream must be introduced into the flame zone; (3) if a flare is used to comply with the standards, it must comply with the requirements set forth in 40 CFR 60.18.

For sources where the costs of combustion control result in a TRE index value greater than 1.0, no additional VOC control is required.

Facilities with low flow rates (less than or equal to 0.011 scm/min) and facilities which are in process units with low production capacities (less than or equal to 1 gigagram per year for all chemicals produced) would be exempt from the standards except for certain recordkeeping and reporting requirements. Batch processes would also be exempt from the standards.

I. Modification/Reconstruction Considerations

An existing facility would be required to meet these standards if it is modified or reconstructed as determined under the General Provisions of 40 CFR part 60. With some specific exceptions, an existing facility is considered to be modified if a physical or operational change results in an increase in VOC emissions. For example, if a reactor is added to a group of existing reactors and if an increase in VOC emissions results, all reactors—existing and new—would be subject to the standards because the facility had been modified. A reconstruction occurs when components of an existing facility are replaced to such an extent that the fixed capital costs of the new components exceed 50 percent of the fixed capital costs that would be required to

construct an entirely new facility comparable to the existing facility. A facility will be considered to have been reconstructed only if it is technologically and economically feasible for the facility to meet the standards.

J. Compliance Testing

Initial performance testing is required to demonstrate that a facility complies with the TRE provisions of the standard or, for facilities complying with the emission reduction requirements, that control devices achieve 98 weight-percent control of VOC emissions or 20 ppmv. Facility owners or operators seeking to demonstrate compliance with the TRE index provisions must determine vent stream flow rate, heating value, VOC emissions, and the presence or absence of halogenated compounds. The vent stream heating value and flow rate are used to select the appropriate TRE index coefficients for calculating the TRE index value. For facilities that seek to comply with the 98 weight-percent reduction requirement, an initial performance test is required if an incinerator, a small boiler or small process heater (less than 150 million Btu/hr) is used. The initial performance test for a flare includes a measurement of exit velocity and stream heat content to verify that the operating specifications are met. The initial performance test has been waived for large boilers and large process heaters (greater than 150 million Btu/hr).

K. Monitoring Requirements

For facilities using any combustion device to comply with the emission reduction requirements, vent stream flow to the combustion device would be monitored by use of flow indicators. For facilities using thermal incinerators, small boilers or small process heaters, continuous measurements of firebox temperatures are also required. For facilities using large boilers or large process heaters, records indicating when the device is being operated are also required. For facilities using a flare, the regulation requires continuous monitoring of the presence of a flame. For facilities using catalytic incinerators, the regulation requires continuous monitoring of the gas stream temperature immediately before and after the catalyst bed.

For facilities using product recovery devices to maintain a TRE index value greater than 1.0, the following parameters are required to be continuously monitored: The temperature and specific gravity of the absorbing liquid where an absorber is the final product recovery device; the exit temperature of the vent stream

where a condenser is the final product recovery device; and the carbon bed temperature and regeneration stream flow where a carbon adsorber is the final product recovery device.

L. Reporting and Recordkeeping Requirements

As required under the General Provisions of 40 CFR part 60, the recommended standards require three types of reports. First, there are notification requirements under the General Provisions, which would enable the Agency to keep abreast of facilities subject to the standards of performance. Second, there is the reporting of performance test results, which would show that a facility is meeting the standards initially. Third, there is the semiannual reporting of exceedances of certain monitored parameters and any change in equipment or process operation that could affect compliance with the TRE or emission reduction requirements or with the low flow and low capacity exemptions. The proposed standards would require records indicating proper operation and maintenance of the control device or product recovery equipment. First, specific operating parameters would be monitored and the results recorded. Second, records of periods when the measured values of these parameters significantly deviated from the values measured in the most recent performance test would be maintained. Third, there would be recordkeeping of major changes that could affect the TRE index value or the low flow and low capacity exemption status. Finally, records and reporting of periods when control device are not operating or when the vent stream is not routed to the control device would be required.

III. Impacts of the NSPS

A. Air

In the fifth year after this NSPS is proposed, it is estimated that nationwide emissions of VOC will be decreased by 2,100 megagrams per year compared with projected emissions calculated to occur in the absence of the standards (baseline). During the first 5 years of the standards' applicability, an estimated 56 facilities would be candidates for the control attributable solely to the requirements of this NSPS. It is estimated that 7 of the 56 facilities are anticipated to be required to meet the 98 weight-percent reduction requirements. However, the VOC emissions from the 7 facilities account for about 90 percent of the total from all 56 facilities. Any increase in emissions of other air pollutants as a result of

controlling VOC emissions will be negligible.

B. Water

A Negligible increase in total plant wastewater is projected under this NSPS.

C. Solid Waste, Noise and Radiation

No solid waste, noise, or radiation impacts are expected under this NSPS.

D. Energy

In the fifth year after this NSPS would become applicable, energy consumption in the SOCMI nationwide would be increased by as much as the equivalent of about 141 barrels of crude oil per day if incinerators and flares are used to comply with the proposed standards when compared with the existing energy consumption associated with the baseline level.

E. Control Costs

During the fifth year of applicability of the proposed standards, the nationwide annualized costs of control at facilities covered by the standards would amount to \$3.7 million (1982 dollars) per year. The nationwide cumulative 5-year capital costs for control under the proposed standards would be \$5.9 million (1982 dollars). These costs are based on the assumption that flares or incinerators would be used to comply with the proposed standards. If less expensive control devices such as boilers and process heaters are used, the costs would be significantly lower.

F. Economic Effects

No chemical that is projected both to have new, modified, or reconstructed facilities built in the first 5 years of the standards and to be required to control emissions beyond current State requirements is projected to have a price increase greater than 5 percent. Furthermore, chemicals that are produced downstream of the listed chemicals will not have price increases over 5 percent. Most of the projected price increases for the listed chemicals and chemicals produced downstream are small: 81 percent are under 2 percent. Impacts on industry structure, industry growth, inflation, foreign trade, and capital formation are projected to be insignificant.

IV. Rationale for the Proposed Standards

A. Selection of Source Category

The EPA priority list, 40 CFR 60.16 (44 FR 49222, August 21, 1979), ranks major source categories for which NSPS are to be promulgated. This list implements

section 111(b) of the Clean Air Act and reflects the Administrator's determination that emissions from the listed source categories contribute significantly to air pollution that endangers health or welfare. The SOCM was ranked highest priority for NSPS development on the final priority list of 59 major source categories. Organic chemical plants are a major source of VOC emissions that contribute to ozone formation.

The VOC's are emitted from four main subcategories of sources within the SOCM: Losses from storage and handling of volatile organic liquids, fugitive leaks from valves and process equipment, evaporative losses from liquid and solid wastes (secondary sources), and emissions from process vents. A breakdown by source type indicates that over half of the VOC emitted from the SOCM are from process vents.

Process vent emission sources are typically associated with product recovery systems in a SOCM chemical manufacturing facility. Process vent emission sources consist primarily of the venting of VOC-containing inert gases and evacuation of equipment for vacuum processing. For purposes of developing an NSPS for the SOCM, EPA has divided process vents into two categories: Continuous and batch processes. Batch process vents are currently being evaluated by the Agency. Continuous process vents include distillation unit operations, air oxidation processes, and reactor process. Standards for distillation unit operations were proposed on December 30, 1983 (48 FR 57538). Standards for air oxidation processes were proposed on October 21, 1983 (48 FR 48932). The standards being proposed today address the third type of process vents: Reactor processes. A reactor process is the means by which one or more substances or reactants, other than air, are chemically altered such that one or more new organic chemicals are formed. The VOC's are emitted from reactor process vents in one of two ways: (1) Indirectly from the reactor following product recovery (e.g., through condensation, absorption, or adsorption), or (2) directly from the reactor to the atmosphere. An estimated 6 percent of the total VOC emitted by the SOCM source category are from reactor processes.

In developing standards, environmental, cost, economics, small business, and other impacts are examined. It would be very resource intensive and time consuming to analyze all of these impacts for each of the many chemicals produced. The result of

following such an approach would be to delay developing standards significantly, resulting in turn in a significant loss in emission reduction. Therefore, EPA has decided to limit the scope of these standards initially to a relatively small number of high production chemicals. The Agency performed an analysis to determine the probable effects of such a limitation. Two alternatives were considered for limiting the scope to high production volume synthetic organic chemicals. The first involved limiting the scope of the standards to about 870 organic chemicals produced in quantities greater than 4,500 Mg/yr (10 million lb/yr). This would cover roughly 97 percent of organic chemical production but would result in an unworkable number of chemicals for the impact analyses. The second alternative would limit the scope of the standards to 173 organic chemicals generally produced in quantities greater than 45,000 Mg/yr (100 million lb/yr). The chemicals covered under this second alternative would account for about 90 percent of total U.S. production of organic chemicals. Therefore, the Administrator concluded that limiting the scope of the standards to the 173 chemicals generally produced in quantities greater than 45,000 Mg/yr would provide a workable scope while covering the great majority of organic chemical production. A list of the affected chemicals is included in the regulation.

B. Pollutant to be Regulated

In addition to VOC emissions, other pollutants are emitted from reactor process sources in much smaller quantities. These include carbon monoxide (CO), Nitrogen oxides (NO_x) sulfur oxides (SO_x) and hydrochloric acid (HCl). The VOC is by far the primary pollutant emitted from reactor processes. Due to the size and complexity of this source category, acquiring the information to determine the applicable technology for the other pollutants that have low emissions at the same time the Agency analyzes the pollutant covered by these standards would have been an unmanageable task. Therefore, the pollutant to be regulated by these standards is VOC.

C. Selection of Regulatory Approach

Two general regulatory approaches were considered for use in developing standards for reactor processes. The first approach would involve establishing standards for each of the 173 specific chemicals included under these proposed standards. It would be very difficult to develop standards using this approach due to the large number of

chemical reactions and chemical products that are produced by reactor processes and the variable emission characteristics associated with each. There are about 35 separate types of chemical reactions used to produce the 173 chemicals that account for the great majority of the emissions from reactor processes.

The second approach involves the development of standards on the basis of similar types of emission sources and applicable emission control techniques. This approach would allow a timely and resource-efficient regulatory development because a large number of specific chemicals can be covered by only one regulation. Using this approach would mean that an NSPS for the SOCM reactor processes could be developed in a relatively short period of time at much less public cost, compared to the chemical-by-chemical approach.

Despite the large number of reaction types and chemicals produced by reactor processes, VOC emissions from reactor process units can be controlled by commonly used combustion and noncombustion control techniques. Because regulating the entire group would be more resource-efficient and the chemical-by-chemical approach is for practical purposes infeasible and lacks any clear advantage, the Administrator has determined that a single regulation should be proposed for all reactor processes in the SOCM. This approach is consistent with the approach taken for the SOCM distillation and air oxidation standards.

D. Selection of Affected Facility

The choice of the affected facility for these standards is based on the Agency's interpretation of section 111 of the Clean Air Act and on the judicial construction of its meaning (*ASARCO, Inc., v. EPA*, 578 F.2d 319 (D.C. Cir. 1978)). Under Section 111, the standards of performance for new stationary sources must apply to "new sources." "Source" is defined as "any building, structure, facility, or installation which emits or may emit any air pollutant" (section 111(a)(3)). Most industrial plants, however, consist of numerous pieces or groups of equipment that emit air pollutants and that may be viewed as "sources." The EPA, therefore, uses the term "affected facility" to designate the equipment within a particular kind of plant that is chosen as the "source" covered by a given standard.

In designating the affected facility, EPA must decide which piece or group of equipment is the appropriate unit (the source) for emission standards in the particular industrial context. The

Agency must do this by examining the situation in light of the terms and purpose of section 111 of the Clean Air Act. The main purpose of section 111 is to minimize emissions by requiring the application of BDT at all new, modified, and reconstructed sources (considering cost, nonair quality health and environmental effects, and energy impacts). The EPA believes that in most cases a narrow affected facility designation will best further this purpose, because in most cases a narrow designation ensures that new emission units will be brought under the coverage of the standards. If, for example, an entire plant is designated as the affected facility, no part of an existing plant would be covered by the standard unless the replacement caused the plant as a whole to be "modified" or "reconstructed." If each piece of equipment is designated as a separate affected facility, then as each piece is replaced, the replacement piece would be a new source subject to the standards. For this reason, EPA generally presumes that the narrow designation is appropriate.

The EPA treats the narrow designation only as a presumption, however, because in some cases a broader affected facility designation may be more consistent with the purposes of section 111. For example, the Agency might choose a broader designation if it concluded that either (a) it would result in greater emissions reduction than would a narrow designation; or (b) the other relevant statutory factors (technical feasibility, economic cost, energy, and nonair quality health and environmental impacts) point to a broader designation.

The EPA analyzed several alternative affected facility designations for the reactor process standards, including (1) each individual reactor with its recovery system; (2) the group of reactors whose vent streams flow together through a single recovery system; and (3) the entire plant. Using the presumption mentioned above, EPA examined as a single affected facility each individual reactor whose vent stream is sent to its own recovery system. The EPA concluded, however, that when reactor vent streams are joined and sent through a single recovery system, the group of reactors and their recovery system, rather than each reactor, should be a single affected facility.

The EPA estimates that a greater reduction in national VOC emissions would likely result under the broader designation of affected facility. This conclusion is based upon the behavior of the industry with regard to the

expansion of reactor capacity and replacement, reconstruction or modification of existing reactors.

Capacity expansions will occur either as a result of new facilities being built or existing ones being expanded. When expanding production capacity at an existing reactor facility, it is common industry practice to add new reactors to existing sets of reactors and recovery systems. When this occurs, there are two possible outcomes under the broader affected facility designation—both of which will result in a greater emissions reduction than would occur under a more narrow designation of affected facility. One possibility is that the total emissions from the group of reactors will increase. In this case, it would bring all (new plus existing) reactors discharging into a common recovery system under the standard by virtue of the NSPS General Provisions regarding "modifications." The second possibility is that the owners or operators of the plant could completely offset the increased emissions from the new reactors by increasing recovery. Although this outcome is unlikely, the result is that a greater emissions reduction will occur under the broad rather than the narrow designation of affected facility. The reason is that by completely offsetting the increased emissions from the new reactors through additional recovery, the emissions from the new reactors have been controlled at 100 weight-percent effectiveness. This exceeds the control effectiveness (i.e., 98 weight-percent) required under this standard.

Replacement of existing reactors rarely occurs within the industry because reactors are expensive pieces of equipment designed and usually built to last the lifetime of the plant. Reactor replacements usually occur as a result of process changes (e.g., from chlorination to hydrochlorination) or as a result of fires or explosions. Whether in multireactor or single reactor facilities, the replacements of individual reactors (as opposed to replacement of entire facilities) are rare. When reactor replacements do occur, however, all reactors tend to be replaced, and, therefore, the reactor replacements would bring the entire facility under the standards under the broader affected facility designation.

Reactor changes that source owners could make that might be considered modifications are substantial changes in catalysts, reactor conditions, or product separation purification equipment. The cost of these changes is so great, however, that most owners would choose to build a new group of reactors

rather than radically modify individual existing reactors. Therefore, few reactors would undergo process changes that might be considered a modification under any designation of affected facility.

Thus, greater emissions reductions are likely to occur under this broader designation. For that reason, the Administrator has determined that the appropriate affected facility designation is an individual reactor with its own individual recovery system (if any) or the combination of two or more reactors and the common recovery system they share.

When several reactors feed vent streams into a common recovery system, the characteristics of the emissions vented into the atmosphere from the recovery system are determined by both the vent streams from each of the reactors and the efficiency of the recovery system. Under the narrow designation, it would have been required that only that portion of the combined vent stream contributed by any new, modified or reconstructed reactor unit comply with the standards when the unit shares a recovery system with existing units. Therefore, the TRE index value would have been determined for the portion of the stream contributed by that unit only. At least three sampling locations would be used in this case. Two of the locations (i.e., before and after the common recovery system) would be used to determine the overall efficiency of the common recovery system. This efficiency would then be applied to the emissions measurement taken at the third sample location which is just prior to the new or changed unit being joined with any other vent stream. Thus, three sample locations would be needed to determine the contribution by the new or changed unit to the total emissions from the common recovery system.

However, under the broader affected facility option selected above, only one sampling site is necessary to determine the facility's TRE index value. No estimation of the recovery system's efficiency on individual reactors is required, because the standards cover the entire vent stream. Therefore, there is no need to determine which portion of the final vent stream from a group of reactors is attributable to new, modified, and reconstructed reactors and which portion is attributable to reactors that have not been changed or added. This results in performance testing that is simpler and cheaper because fewer sampling sites and simpler analyses are needed.

The Administrator has decided to exclude from these standards reactors that are operated in a batch mode rather than operated continuously. The data upon which the standards are based (including the cost and control device performance) assume a continuous or near continuous type of operation.

Also excluded from these standards are facilities in plants with very low capacities or with very low vent stream flows. Most research and development or laboratory scale facilities are not designed to produce more than one gigagram (Gg) per year. It is not the intent of the standards to cover such facilities because they are generally intermittent operations. Moreover, the control techniques that are applicable to industry-scale production facilities would not necessarily be appropriate for these operations. For these reasons, EPA has decided to exempt facilities which are part of process units with one Gg production capacity per year or less of all chemicals produced within the process unit. Similarly, facilities with vent stream flows below 0.011 standard cubic meters per minute (scm/min) are excluded from the standards. No facility with flows below this cutoff are anticipated to have TRE index value less than 1.0, and thus to include them under the standards would impose unnecessary reporting and recordkeeping requirements on these facilities. For the low flow facilities, only an initial measurement and report is required to verify entitlement to the exclusion. In addition, owners and operators of both low capacity and low flow facilities are required to notify EPA if a change occurs that would result in production capacities or flows above the respective cutoff levels.

E. Selection of Control Techniques

The Clean Air Act requires that standards of performance be based on the best system of continuous emission reduction, considering costs, energy usage and nonair health and environmental impacts ("best demonstrated technology" or BDT). As discussed in the BID, one or more combustion techniques (boiler, process heater, incinerator, or flares) are applicable to any reactor process vent stream and can achieve at least 98 weight-percent control or 20 ppmv in the outlet gas.

However, combustion control devices are the only types of control devices which are applicable to reactor processes. The EPA examined several VOC control technologies that achieve the same or less emission reduction, such as absorption, adsorption, condenser devices, and catalytic

oxidation, but found that these control technologies are not applicable to all reactor process vent streams. Moreover, EPA is unable, with available information, to identify subcategories of reactor processes for which the above mentioned control technologies have been demonstrated to always apply. The applicability and effectiveness of these devices may be greatly affected by the vent stream flow rate, water content, temperature, VOC concentration, and VOC properties such as solubility, molecular weight, and liquid/vapor equilibrium. These characteristics vary widely within the SOCMI. Therefore, there is no way to evaluate technologies for application to reactor process units for which thermal incineration and flaring have been determined to be too costly. Even with greater resources, this approach would be infeasible because it would require a stream-by-stream characterization, ultimately resulting in the need for a separate standard for each vent stream from a process used to produce a reactor chemical.

Combustion devices were found to be applicable to any nonhalogenated vent stream. For incinerators, operating conditions can be identified that will ensure 98 weight-percent reduction or 20 ppmv total organics (minus methane and ethane) in the outlet gas, whichever is less stringent. Boilers and process heaters were found to be capable of achieving 98 weight-percent reduction if the organic-laden stream is used as a fuel and is put into the flame zone. In recent tests, smokeless steam-assisted, air-assisted and nonassisted flares were also found to be as efficient as these other combustion devices in achieving 98 weight-percent reduction of VOC if they were operated as specified in 40 CFR 60.18. In terms of cost, boilers and process heaters are generally the least expensive combustion devices, because these units are already in place in SOCMI plants and because of heat recovery from the VOC-containing vent streams. Flares can control most nonhalogenated VOC-containing streams for less cost than incinerators. Incinerators were found to be the only devices applicable to halogenated streams because incinerators can accept a wide variety of stream types and can be constructed to tolerate the corrosive effects of halogenated streams. Furthermore, an absorber can be used to remove halogens from the offgases exiting the incinerator.

In summary, 98 weight-percent control or reduction to 20 ppmv is achievable for all halogenated and nonhalogenated reactor process vent streams using one of the combustion devices discussed

above. Thus, these four combustion devices are candidates for BDT for the emission source category of organic chemical reactor processes.

Since vent stream characteristics within this category vary widely, it is to be expected that the cost per unit of emission reduction among streams will also vary. The potential environmental impacts of using a combustion device to control VOC emissions vary from vent stream to vent stream. The Administrator, therefore, has analyzed the environmental, economic, and energy impacts and the cost per unit of emission reduction for reactor processes vent streams included in the scope of these standards to determine if, due to adverse impacts associated with the use of the most applicable combustion devices, BDT for certain classes, types, or sizes of reactor processes might be no additional control. The following sections discuss these additional impacts.

Consideration of Environmental Impacts

The potential adverse environmental impacts that could result from reactor process standards were assessed. The generation of NO_x by the combustion process was examined as a possible native impact on ambient air quality. The principal factors affecting the rate of NO_x formation during combustion are the amount of excess air available, the peak temperature, and the rate of cooling of the combustion products. Relatively low combustion temperatures of approximately 870 °C (1,600 °F) are associated with control of VOC using thermal incinerators, and residence times are generally too short to be conducive to NO_x formation. Therefore, the rate of NO_x formation is expected to be low if incinerators are used.

Introduction of a reactor process vent stream as a supplement to the fuel and combustion air normally introduced into a boiler or process heater could, in some cases, result in increases in NO_x emissions. The combustion temperatures in these devices are well in excess of 2,000 °F and are therefore conducive to NO_x formation, and some reactor process vents being controlled would contain nitrogenous organic compounds or nitrogen from air in the vent stream. However, reactor process vent streams would represent only a small part of the total input to the boiler or heater. Also, in many cases, introduction of the reactor process vent stream would result in lowered fuel requirements and could result in lower NO_x emissions if the nitrogen from nitrogenous organic compounds is less than the fuel-bound nitrogen of the fuel being replaced. In

addition, measures to minimize NO_x formation could be implemented due to NO_x standards under development for industrial boilers. Any increase or decrease in NO_x emissions due to introduction of the reactor process stream would be slight.

Only limited data are available for NO_x emissions from flares. In a recent study of steam-assisted and air-assisted flares, the highest estimated NO_x emissions were well below the reported NO_x emissions tabulated for industrial boilers and process heaters firing gas or oil. Because NO_x emissions from flares are less than the NO_x emissions from boilers and process heaters (which are themselves slight), NO_x emissions from flares are considered to be insignificant. Therefore, any increase in NO_x emissions resulting from the combustion of a reactor process vent stream is expected to be relatively small.

In additions to generation of NO_x, the control of VOC emissions from halogenated vent streams by thermal incinerators may result in the release of halogenated combustion products to the environment. However, flue gas quenching and scrubbing could be used to remove these compounds from the incinerator outlet stream. State or local regulations may require use of these scrubbers if the halogenated combustion products are in high enough concentrations. Current industry practice among reactor process facilities with halogenated vent streams that employ combustion devices is to use flue gas scrubbing to reduce plant maintenance costs by preventing corrosion of equipment. The capital cost and operating costs associated with flue gas quenching and scrubbing were taken into account in projecting the cost impacts for the standards.

Control of VOC emissions using combustion devices would not result in any significant increase in wastewater discharge by reactor processes. No water effluents are generated by the combustion devices themselves.

Use of an incinerator/scrubber system for control of VOC emissions from halogenated streams would result in increased water consumption. The increase in total plant wastewater would be relatively small and would not affect plant waste treatment capacity or sewer capacity. However, if the scrubber effluent is not recovered, it may be necessary to adjust the pH of the scrubber effluent by treatment with caustic (NaOH) before it is released into the plant wastewater system. The salt (NaCl) formed by the caustic treatment must be purged from the system and properly disposed. Brine solutions are currently disposed of in a variety of

ways depending on site-specific conditions. These include direct discharge to sewer systems and surface waters (fresh and salt water bodies or rivers), discharge to evaporative lagoons, and injection into a disposal well. Because it is not possible to determine which options will be selected by the individual facilities analyzed, it would be impractical to represent all of these types of brine disposal in the cost analysis. Therefore, the costs most likely to occur at affected facilities, handling halogenated compounds, were considered instead.

The Agency has investigated brine disposal costs and has found that the deep well injection cost represents the cost associated with the most expensive disposal option available. In addition, available data indicate that this cost is appropriate for disposal of hazardous wastes in deep wells, not nonhazardous brine solutions. Furthermore, the cost associated with this option is not applicable to the majority of facilities generating brine.

For the reactor processes NSPS, the cost for brine disposal was considered to be negligible and not included in the TRE equation because the disposal options most likely to be used by affected facilities are of a relatively low cost. These include ocean dumping; direct discharge to fresh water, brackish water, and sewer systems were permitted; and injection into existing oil or gas wells that are located on-site. The Agency sees no reason why any facility would have to choose the most expensive option of deep well injection; therefore, these costs were not included in the TRE equation.

For each of the 173 chemicals under consideration, the adverse environmental impacts of VOC control using combustion devices would not be significant. Therefore, these impacts do not provide a basis for exempting any of the chemicals from the proposed standards or affecting the selection of BDT.

Consideration of Economic Impacts

An economic analysis was performed to determine if the price of any of the 173 chemicals or chemicals produced from the listed chemicals would be adversely affected by control at the 98 weight-percent reduction level. Assumptions that tend to maximize projected price increases were used in the analysis.

Some of the 173 chemicals are basic chemicals produced directly from the petroleum, while others are intermediates or end-use chemicals produced from the basic chemicals. The price increase caused by the use of a

combustion device for a particular chemical was assumed to be reflected also in the price of all chemicals produced from that chemical. The projected price increase was calculated assuming that all control costs would be reflected as price increase, and that none would be absorbed. The price increase was calculated by dividing the estimated annualized control costs by the annual production of a facility. The price increase was then rolled into the price of chemicals that are produced downstream of the listed chemicals.

No chemical that is projected both to have new, modified, or reconstructed facilities built in the first 5 years of the standards and to be required to control emissions beyond current State requirements is projected to have a price increase greater than 5 percent. Furthermore, chemicals that are produced downstream of the listed chemicals will not have price increases over 5 percent. Most of the projected price increases for listed and downstream chemicals are small: 81 percent are under 2 percent while 90 percent are under 3 percent; any actual price increases are expected to be less than these projections. Impacts on industry structure, industry growth, inflation, foreign trade, and capital formation are projected to be insignificant.

Consideration of Cost and Energy Impacts

After it had been determined that the 98 weight-percent VOC emission reduction could be achieved from a variety of combustion controls without significant adverse environmental or economic impacts, the Administrator next examined the cost, energy, and costs per unit of VOC reduced (i.e., cost effectiveness) of these controls on the projected new, modified, or reconstructed reactor process units. Based on EPA's previous experience in developing an NSPS for SO₂ process vents, the Agency anticipated that the cost of removing VOC from the vent streams of some of the process units would be unreasonably high and therefore, conducted additional analysis.

The analysis required to determine costs, energy requirements, and costs per unit of VOC reduced included the following steps. First, the total number of new, modified, and reconstructed process units with vent streams which would be affected by the standard during the first 5 years was estimated. These include all process units with vent streams projected to not use combustion in the absence of an NSPS.

The process units with these uncontrolled streams are assumed to be those that would incur the cost and energy impacts resulting from the control requirements of the standards. The costs of controlling the emissions from these process units were then developed for each. These process units were then ranked according to costs of control per Mg of VOC reduced. From this ranking, a set of regulatory alternatives consisting of increasingly large numbers of controlled process units was developed. The remainder of this section provides a discussion of the approach and results of this regulatory analysis.

In order to project the number of process units that would be affected by the standards during the first 5 years of its applicability, estimates of SOGMI growth and replacement capacity were determined for each of the 173 chemicals. This step identified all of the chemicals which may have new, modified or reconstructed process units built between 1985 and 1990. The next step was to identify which of these chemicals would likely have units built where combustion devices would be applied in the absence of an NSPS. A total of 22 chemicals were identified as where combustion would be applied as a result of existing regulations or industry practices. Any impacts associated with process units making these chemicals would not be attributed to the NSPS and, therefore, these chemicals were eliminated from the analysis of impacts. The next step was to estimate the number and size of new, modified, and reconstructed process units producing chemicals which would likely not use a combustion device in the absence of an NSPS. A total of 56 such units were projected to come on-line and these were the facilities included in the analysis of impacts.

To determine the emission characteristics of these 56 process units, an extensive data base on existing reactor processes was developed. This data base or Emissions Data Profile

(EDP) covers 127 reactor process units and is discussed in detail in the BID. The emission characteristics contained in the EDP were used to represent the emission characteristics of the 56 process units. It was assumed the EDP was representative of units making all of the chemicals associated with the 56 units. The EDP is based upon reactor process units rather than affected facilities. A process unit is defined in the BID as one or more combinations of reactor(s) and recovery system(s) located at a common site and producing the same chemical. Therefore, it should be noted that this regulatory analysis is based upon an industry unit which, in some cases, may include more than one affected facility. The EPA does not believe that this difference will affect the validity of the conclusions of this regulatory analysis because where a process unit contains more than one affected facility it is likely that emissions from both facilities will be ducted to a common control device. This is the situation represented in the regulatory analysis.

As previously stated, the 56 process units projected to come on-line between 1985 and 1990 are estimated to have vent streams that would not be controlled in the absence of an NSPS. The VOC emissions from these 56 process units are estimated to be about 2,400 Mg/yr. Total emissions from the 77 process units making the 22 chemicals anticipated to use combustion in the absence of an NSPS are estimated to be 910 Mg/yr. Therefore, the baseline emissions for all new, modified, and reconstructed reactor process units projected to come on-line between 1985 and 1990 are estimated to be 3,310 Mg/yr (the sum of 2,400 and 910). Baseline represents conditions that would exist in the absence of a standard. The proposed standards would affect the 2,400 Mg/yr from the 56 process units with uncontrolled vent streams.

In order to rank the 56 process units and to conduct the regulatory analysis, the cost for controlling each of the

process units was determined. Estimating the cost of controlling VOC emissions from reactor process units consists of first designing the control system and then costing the system. The general approach used consists of determining the design parameters for a control system applied to a particular reactor process that emits VOC. The system was costed based upon these design parameters and by using cost equations developed from data supplied by vendors and industry. It was not possible with available data to identify those reactor process vent streams for which the use of catalytic incinerators, process heaters, and boilers would be applicable. Therefore, only thermal incinerators and flares were used to develop these cost data. Flares or incinerators (whichever were determined to be less costly) were applied to nonhalogenated streams. Incinerators are applied to vent streams containing halogenated VOC because flare tip corrosion may prohibit use of flares and because halogenated streams may create secondary emissions that require flue gas scrubbing (which is not possible from flared emission). Because this regulatory analysis is based upon the assumption that facilities will use flares and incinerators, when in fact, the less expensive boilers and process heaters (because they are already in place and they accrue heat recovery credits) will be used in some plants, the cost impacts are overstated.

Once the cost and emissions reductions for each of the 56 process units were estimated, the cost per Mg of VOC reduction for each process unit was determined. Then, each of the 56 units was ranked by cost effectiveness (i.e., from the lowest to the highest cost per Mg of VOC). To illustrate how impacts change as a result of increasing the number of units controlled, nine regulatory alternatives were developed based on discrete cost-effectiveness cutoffs from a continuum of all possible cost-effectiveness values. These alternatives are presented in Table 1.

TABLE 1.—SUMMARY OF ENVIRONMENTAL, COST, AND ENERGY IMPACTS OF NINE REGULATORY ALTERNATIVES *

[All Costs are in Third Quarter 1982 Dollars]

Regulatory alternatives	Theoretical ^b worst case cost-effectiveness cutoff value (\$/Mg)	Average cost per Mg of VOC removed (\$/Mg)	Costs per Mg of VOC removed (\$/Mg)	Number of units controlled	Emission reduction from baseline (Mg/yr)	Percent "controllable" emissions reduced ^c	National annualized costs (million \$/yr)	National energy requirements (TJ/yr) ^d
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
I ^e				0	0	0	0	0
II	1,200	500	250-760	4	300	13	0.15	3
III	2,500	1,700	2,000	7	2,100	90	3.7	320
IV	5,500	1,800	5,400	9	2,300	91	3.9	340
V	20,000	2,100	5,600-14,000	21	2,300	97	4.7	390
VI	50,000	2,900	21,000-43,000	33	2,300	100	6.7	430

TABLE 1.—SUMMARY OF ENVIRONMENTAL, COST, AND ENERGY IMPACTS OF NINE REGULATORY ALTERNATIVES *—Continued

[All Costs are in Third Quarter 1982 Dollars]

Regulatory alternatives	Theoretical ^b worst case cost-effectiveness cutoff value (\$/Mg)	Average cost per Mg of VOC removed (\$/Mg)	Costs per Mg of VOC removed (\$/Mg)	Number of units controlled	Emission reduction from baseline (Mg/yr)	Percent "controllable" emissions reduced ^c	National annualized costs (million \$/yr)	National energy requirements (TJ/yr) ^d
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
VII.....	200,000	3,200	64,000-110,000	42	2,300	100	7.4	440
VIII.....	500,000	3,500	280,000-450,000	46	2,300	100	8.2	450
IX.....	> 500,000	4,000	> 4,000,000	56	2,300	100	9.3	520

* Calculated for the fifth year of the NSPS.

^b This is a theoretical cost effectiveness. As explained elsewhere in this document, all the units with calculated costs per Mg which approach the indicated value are expected to make process adjustments and thus not experience control costs as high as indicated by this theoretical worst case.^c Controllable emissions are the 2,400 Mg/yr that would be controlled if all 56 units were controlled at 98-weight-percent VOC destruction efficiency (i.e., at the most stringent possible alternative, Alternative IX).^d Expressed in Terajoules per year.^e Baseline, or conditions that would exist in the absence of the standards.

Column 1 in Table 1 identifies each of the nine alternatives. Regulatory Alternative I represents baseline or the conditions which would exist in the absence of a standard. At the other extreme is Alternative IX, which would control all 56 units. The number of units controlled above baseline for each alternative is presented in Column 5. The ranges of costs per Mg of VOC removed within each alternative are presented in Column 4. These ranges represent the additional cost-effectiveness values achieved at successively higher alternatives. Column 3 presents the average costs per Mg of VOC removed for each alternative. Thus, for example, Regulatory Alternative III could theoretically control 7 of the 56 process units with an average cost of \$1,700/Mg of VOC controlled (in 1982 dollars).

Column 6 in Table 1 presents an estimate of the VOC emissions reduction over baseline from the 56 units. At baseline 2,400 Mg/yr of VOC would be emitted by the 56 units. Under Alternative II, 4 units would be controlled resulting in a reduction of 300 Mg/yr. However, under Alternative III, a total of 7 units are theoretically controlled resulting in an emission reduction of 2,100 Mg/yr. If all 56 units were controlled at 98 weight-percent (Alternative IX), there would be a reduction of 2,300 Mg/yr of VOC being emitted from the 56 units. This alternative is the most stringent possible. These 2,300 Mg/yr of VOC emissions are the maximum available for control. Column 7 presents the percentage of the "controllable" emissions that each regulatory alternative would control "Controllable" emissions are 98 percent of total emissions from the 56 units (98 percent of 2,400 Mg/yr).

It is evident from Columns 6 and 7 that most of the emissions reduction

occurs as a result of controlling only a small fraction of the 56 process units. For example, Alternative III would control only 7 of the 56 process units. For example, Alternative IX would control only 7 of the 56 process units but would account for about 90 percent of the controllable emissions.

Column 8 presents the national annualized costs requirements for each alternative. These cost impacts range from \$0.15 million (1982 dollars) for Alternative II to \$9.3 million for Alternative IX. Capital costs accumulated over the 5-year period (not shown in the table) range from \$270,000 for Alternative II to \$17.3 million for Alternative IX. These cost and cost-effectiveness data reflect the costs of controlling these units at 98 weight-percent VOC reduction through the use of incinerators and flares. The actual costs and cost effectiveness should be considerably less than those indicated in Table 1 for two reasons. First, plant owners and operators may be able to use boilers, process heaters or catalytic oxidizers rather than the more expensive flares and incinerators to comply with the 98 weight-percent reduction requirement. Secondly, as will be discussed later in this preamble, plant owners and operators may be able to increase the efficiency of product recovery sufficiently to comply with this standard and thereby would not have to apply 98 weight-percent-efficient reduction controls. To the extent that this alternative means of compliance is used; costs as well as emission reduction will be lower than those indicated in Table 1.

Column 9 presents the energy impacts of the various alternatives. Electricity is frequently required to operate the pumps, fans, blowers and instrumentation that may be necessary to control VOC using an incinerator or flare. The amount of supplemental fuel

needed to increase the heating value of vent streams depends on vent stream temperature, net heating value of vent streams depends on vent stream temperature, net heating value, flow rate, combustion temperature, and type of heat recovery used. Due to the use of heat recovery techniques, combustion of some reactor process vent streams would result in a net production of energy even though supplemental fuel would be necessary for flame stability. Total electricity needs are relatively small compared to energy requirements in the form of supplemental fuel for combustion. The fifth year national energy use would range from about 3 terajoules per year (TJ/yr) (453 barrels of oil/yr) for Alternative II to 517 TJ/yr (85,000 barrels of oil/yr) for Alternative IX. As with the cost data, these impacts may be overstated because some facility operators will choose to comply with the standards through the alternative devices and mechanisms previously discussed.

F. Selection of Best Demonstrated Technology

As explained previously, the control of reactor process units would not result in unreasonable nonair environmental impacts or cause any of the chemicals to experience a significant adverse economic impact. Therefore, the Administrator analyzed the cost per megagram of emission reduction and energy impacts before determining which regulatory alternative should be selected. This analysis assures that the cost of units being controlled is reasonable, not only in terms of economic impacts, but also in terms of the emission reductions that would result. In this analysis, the cost data in Table 1 were first considered. The energy impacts shown in Table 1 indicate that there would be no unreasonable adverse energy impacts,

even if all units were controlled by combustion devices.

In selecting cutoffs related to applicability of NSPS, EPA looks at a variety of factors including: (1) The technical feasibility of additional control; (2) the economic feasibility associated with different control alternatives; (3) the magnitude of emission reductions associated with a control alternative (e.g., a slightly higher cutoff could be selected if it led to a substantial increase in the emission reduction achieved by the NSPS); (4) the cost effectiveness (C/E) of the control alternative in terms of annual cost per megagram (\$/Mg) of emissions reduced; (5) the quality of the cost estimates (e.g., worst case versus realistic estimates); (6) potential reductions in other air pollutants not specifically regulated by the NSPS resulting from a control alternative; and (7) the location of the sources (e.g., urban versus rural). Because these factors vary from industry to industry and, in some cases, within the same industry, decisions on the appropriate level of control are made on a category-by-category basis.

After evaluating the above factors, the Administrator concluded that the cost of requiring control of any reactor process unit below the \$2,500/Mg cutoff (1982 dollars) is reasonable and found that the following considerations were key to selecting the cutoff: (1) The cost effectiveness of NSPS for VOC emissions previously promulgated by EPA; (2) the probability that these maximum costs will not actually be incurred by industry; and (3) the presence of potentially toxic compounds in SOCM reactor process vent streams and the fact that many of the facilities are located in urban areas.

In the past, the estimated cost per megagram of VOC removed has sometimes ranged as high as \$2,800/Mg (1982 dollars) for affected facilities covered by other NSPS. (See Docket Item No. II-B-64). The Agency's experience in implementing these standards reveals that NSPS requiring this level of control have proved a useful tool in bringing about the installation of much emissions control technology, significant reductions in emissions, and corresponding improvements in air quality, yet have not imposed costs that appear "grossly disproportionate" to the emission reduction achieved. *Portland II*, 513 F.2d at 508. Such an approach simply makes this NSPS consistent (as to dollars spent per metric ton of VOC removed) with the existing body of NSPS regulations, all of which have either been promulgated without legal challenge or have been judicially

upheld. As indicated in column 2 of table 1, the cost-effectiveness cutoff of \$2,500/Mg used in the standard corresponds to Regulatory Alternative III. This alternative is estimated to result in a national annualized cost of \$3.7 million (1982 dollars) by controlling seven process units with a VOC emissions reduction of 2,100 Mg/yr. The range of cost effectiveness would vary from \$250/Mg to \$2,000/Mg with a \$1,700 average cost per megagram of VOC reduced.

Because of the conservative assumptions used to develop the regulatory analysis and because of the flexibility inherent in the means by which industry can comply with the standards, it is very unlikely that any facility would actually have to incur a cost of \$2,500/Mg (the cost-effectiveness cutoff). Data on current capital costs of thermal incinerators indicate that units are now available at substantially reduced costs compared to those used in developing these proposed standards. Lower capital costs would result in lower annualized costs than previous estimates, though the change in annualized costs will not be as significant as the change in capital costs. This is an important factor to consider in selecting the appropriate regulatory alternative. Another consideration is the fact that natural gas prices used to calculate the cost effectiveness for each stream are overstated by about 40 percent. These conservative assumptions have resulted in higher cost and cost-effectiveness estimates than would actually occur. In addition, as discussed earlier, the regulatory analysis assumes (for costing purposes) that flares and incinerators would be used to comply with the standards. In fact, it may be feasible for these facilities to use boilers or process heaters. If they are able to use these devices, the costs of compliance would be significantly reduced. Costs would also be reduced for reactors that share control systems with other process vents. Finally, the proposed standard would encourage pollution prevention by not requiring 98 weight-percent reduction if a TRE index greater than 1.0 is maintained. As detailed in the section entitled "TRE Index," the costs shown in table 1 do not take into account the ability of facilities to comply with the standards through changes in the equipment or operation of the process facility, in certain cases, thereby avoiding additional control device costs. Available data indicate that reactor process facilities with a TRE index just below the 1.0 cutoff (equivalent to \$2,500/Mg) would probably opt to

comply with the standards by making a process change such as adding recovery equipment to reduce VOC emissions and raise their TRE index above 1.0 rather than by combusting the vent stream. The objective of making a process change is to reduce VOC emissions without disposing of the VOC to the point at which the cost effectiveness associated with combustion is over the cutoff. For example, reactor process facilities with TRE values as low as 30 percent below the cutoff could potentially apply product recovery devices to comply with the standards. Due to this ability, no reactor process facility is likely to incur the maximum cost-effectiveness value of \$2,500/Mg. The highest value that a facility would actually incur by using a combustion device is estimated to be approximately \$1,700/Mg.

A third consideration in the selection of this regulatory alternative is that SOCM reactor process vent streams contain a wide variety of suspected or confirmed toxic compounds (e.g., benzene, acrylonitrile, butadiene, ethylene dichloride, ethylene oxide, carbon tetrachloride, and chloroform). A document listing the known toxic effects for the chemicals covered by this standard has been placed in Docket A-83-29 (Item II-I-168). Data on the emissions sources of more than 80 potentially toxic air pollutants indicate that the SOCM emissions account for a disproportionate share of potentially toxic constituents compared to other VOC sources (see Docket Entry II-A-39). In addition, as stated in the EPA's Air Toxics Strategy published in July 1985, the Agency will consider the likely toxic pollutant control benefits in the course of carrying out its responsibilities under section 111. This strategy reduces emissions of potentially toxic compounds from new sources and from industries as their facilities are reconstructed and modified. This approach is to work in tandem with EPA's efforts to control existing and new sources of specific toxic compounds under section 112 of the CAA. In setting an NSPS under section 111 of the CAA, the Agency evaluates all relevant factors (including costs, control technologies, environmental and energy impacts, and secondary impacts or benefits). Control of potentially toxic compounds by this NSPS is a secondary benefit that was considered by the Administrator in determining the reasonableness of the cost of different regulatory alternatives. Therefore, although EPA has not yet decided whether to list many of these compounds under section 112 of the

CAA, the Agency believes that it may properly consider their potential toxicity along with other relevant factors when choosing the cutoff. Many SOCM facilities are located in urban areas and, as a result, many people will be exposed to any hazardous air pollutants emitted from these facilities.

Consideration of all of the above factors confirmed EPA's belief that a TRE value of 1.0 (i.e., \$2,500/Mg) represents an appropriate cutoff for determining which facilities must reduce VOC emissions by 98 weight-percent or to 20 ppmv. The cutoff is specific to the SOCM reactor processes source category and would not necessarily be appropriate for other source categories; therefore, it should not be viewed as a benchmark for other standards. It is not surprising, however, that the cost-effectiveness cutoff for reactors of \$2,500/Mg (1982 dollars) is equivalent to the \$1,900/Mg (1978 dollars) cutoff for the SOCM air oxidation processes and distillation operations standards considering that the industry, the pollutants emitted, and the emission controls are the same. The only differences among the sources are the processes that are the sources of VOC emissions.

G. Selection of Format for the Standards

Several formats could be used to implement the proposed standards. Section 111 of the Clean Air Act requires that numerical standards of performance be prescribed unless, in the judgment of the Administrator, it is not feasible to prescribe or enforce such standards. In this case, section 111(h) allows the Administrator to prescribe design, equipment, work practice or operational standards, or combinations thereof. Under that Section the term "not feasible" is applicable if the emissions cannot be captured and vented through a vent or stack designed for that purpose, or if the application of a measurement methodology is not practicable because of technological or economic limitations. Because emissions from reactor vents and emissions from incinerators, process heaters, and boilers can be measured, an emission limitation (performance) standard for these combustion devices would generally be appropriate.

Because of the variety in process vent flow rates and VOC contents for many chemical reaction processes and facilities in the reactor source category, mass emission rates from sources using 98 weight-percent efficient control devices would vary considerably. Consequently, a mass emission limit based on an average source would require that more than 98 weight-percent

control be selected as BDT at some facilities and less at others. Therefore, a mass emission standard was considered inappropriate, because it would not require the BDT at each source. Reactor process vent streams have as much variation in volume percent organics concentration as in mass emission rates. Any standards based solely on a concentration limit would also require more than BDT at some facilities and less than BDT at others. Therefore, standards based solely upon concentration were considered inappropriate. However, as discussed below, a concentrations limit might be used in combination with another type of emission limit if the applicability of the concentration limit were restricted to facilities within a limited range of process vent gas VOC content.

A weight-percent reduction standard would be feasible for incinerators, boilers, and process heaters because the control device inlet and outlet emission rates can be measured. A weight-percent reduction standard would result in the application of BDT at all sources. Furthermore, a given set of incinerator, boiler, or process heater operating conditions tends to result in a given weight-percent reduction, rather than in an absolute outlet organics concentration or emission rate. As discussed above in the section entitled *Selection of Best Demonstrated Technology*, all new incinerators can achieve at least a 98 weight-percent reduction in total organics (minus methane and ethane), provided that the total organic (minus methane and ethane) concentration of the process vent stream is greater than approximately 2,000 ppmv (corresponding to 1,000 ppmv VOC in the incinerator inlet stream because air dilution is typically 1:1). Therefore, a weight-percent reduction standard, based on the mass rate of organics exiting the control device versus the mass rate of organics entering the device, would be appropriate for vent streams with total organics (minus methane and ethane) concentrations above approximately 2,000 ppmv. For vent streams with organics concentrations below approximately 2,000 ppmv, it has been determined that an incinerator outlet concentration of 20 ppmv is achievable by all new incinerators. Therefore, EPA concluded that the format of the proposed standards for reactor process vents using an incinerator, boiler, or process heater should include a combination of a weight-percent reduction standard and a volume concentration standard. The proposed emission limits would be a 98 weight-

percent reduction in total organic compounds (minus methane and ethane) or reduction to 20 ppmv total organic compounds (minus methane and ethane), whichever would be less stringent. The concentration limit of 20 ppmv would be based on a 3 percent vent stream oxygen concentration in the outlet stream.

Boilers and process heaters can achieve a 98 weight-percent reduction, provided that the waste stream is introduced into the flame zone where temperatures are highest. Unlike incinerators, in which furnace temperatures are fairly constant, furnace temperatures in heat-generating units are highest. Unlike incinerators, in which furnace temperatures are fairly constant, furnace temperatures in heat-generating units are highest in the flame zone, and a temperature gradient is experienced between the flame zone and the walls. The combustion kinetics are much more rapid in the flame zone, due to the higher temperatures (2,800°F to 3,000°F). This results in very small residence time requirements (much less than furnace residence times) to achieve 98 weight-percent reduction or greater than is required in an incinerator. When burned as a fuel in the flame zone, the organic compounds to be destroyed are exposed to these higher temperatures. As a result of the more rapid combustion kinetics at these temperatures, high destruction efficiencies comparable to those achieved by incinerators are attainable. In tests of the combustion of organic compounds burned as fuels in boilers and process heaters, greater than 98 weight-percent destruction efficiencies were demonstrated. Therefore, a reactor process vent stream, when combusted in a boiler or heater, must be introduced into the flame zone to ensure that it reaches sufficient combustion temperatures for destruction of the VOC. If the waste stream is not introduced into the flame zone, measuring 98 weight-percent efficiency across the control device has no value (i.e., does not assure the stream is being reduced by 98 weight-percent) since reactor process vent streams comprise generally a small portion of the total combustible stream to the heat generating unit. It is infeasible to "measure" whether the waste stream is introduced into the flame zone. Therefore, where a boiler or process heater is used as the control device, it is appropriate under section 111(h) of the CAA to have a combination format of performance standard and operational requirement. The proposed emission limit therefore would require any owner or operator using a boiler or process

heater to introduce the reactor process vent stream into the flame zone of the combustion device.

Unlike boilers, heaters and incinerators in which combustion takes place in an enclosed chamber, flaring is an open combustion process. It is very difficult, therefore, to measure the emissions from a flare to determine its efficiency. It may be technologically possible to measure these emissions, but the costs involved due to the necessity of hooding the flare and other equipment needs would be economically impracticable. The Administrator, therefore, has determined that it is not feasible to measure the emissions from a flare. Consequently, an equipment standard with stated specifications is being proposed as the format for the use of flares.

As described in the BID, test data show that flares meeting certain conditions achieve a 98 weight-percent emission reduction. The proposed standards require the use of a flare that meets the requirements of 40 CFR 60.18 to comply with the standards. This means that only flares that are steam assisted, air assisted, or nonassisted may be used. Furthermore, the net heating value of the flared gas must not be less than 11.2 MJ/scm (300 Btu/scf) for steam-assisted and air-assisted flares or less than 7.45 MJ/scm (200 Btu/scf) for a nonassisted flare. In addition, the exit velocity of the flare gas at the flare tip must not exceed 18.3 m/sec (60 ft/sec) for steam-assisted and nonassisted flares, except for the following conditions. If the net heating value of the gas being combusted is greater than 37.3 MJ/scm (1,000 Btu/scf), the exit velocity of the flare gas at the flare tip must not exceed 122 m/sec (400 ft/sec) for steam-assisted and nonassisted flares. When the net heating value is less than 37.3 MJ/scm but greater than 11.2 MJ/scm, the maximum exit velocity for nonassisted and steam-assisted flares is a function of the heating value. Air-assisted flares must also operate below a maximum exit velocity, which is dependent upon the net heating value of the flared stream. There are the only conditions for which EPA has data supporting the finding that flares achieve 98 weight-percent emission reduction.

Another consideration in developing the equipment standard for streams using flares is the potential for process variations such as flow surges that can cause a flare to smoke for short periods of time until the flare can be adjusted. Five minutes is a reasonable period of time for alleviating the smoking conditions by making the needed

adjustment to the steam or air to the flare. The provisions in 40 CFR 60.18 limit visible emissions to no more than 5 minutes within any 2-hour period.

Some reactors process facilities recycle all vapors to the manufacturing process and, therefore, do not emit VOC. For others, the product recovery devices remove virtually all of the vent stream. Analysis by EPA indicates that, even with large vent stream VOC emission rates and heat contents, no vent stream with flow rate below 0.011 scm/min (0.30 scfm) would be required to implement combustion controls. These facilities would have an unreasonably high control cost per megagram of VOC destroyed (greater than \$2,500/Mg). For this reason, the proposed standards exclude facilities with flow rates less than 0.011 scm/min from the provisions of the standards except for an initial measurement and reporting requirement.

H. TRE Index

After selecting the cost-effectiveness cutoff above which additional control of VOC is not required, it was necessary to develop a method for use in the regulation that would distinguish those reactor process units below the cutoff (which would be required to meet the 98 weight-percent reduction requirements) from those process units for which no additional VOC reduction would be required. The EPA, therefore, has included equations in the regulation to calculate an index to determine whether further control is required. This index is termed TRE. An important feature of this index is that it is independent of cost changes over time so that it is not necessary to periodically revise the calculation to reflect current year dollars. The equations include the parameters used in calculating costs considered in selecting the cutoff. These parameters are the vent stream characteristics of flow rate, net heating value, mass flow of total organic compounds, and corrosion properties (presence of halogenated compounds). These parameters can be measured easily and objectively. The TRE value calculation allows the owner or operator of an affected facility to determine if that facility would be required to reduce VOC emissions by 98 weight-percent or to 20 ppmv. The standardized calculation allows objective enforcement since all TRE values would be calculated based on the same parameters and calculated by the same method.

The TRE index of a process vent stream is calculated according to one or both equations given in § 60.704(e)(7). The TRE index cutoff as calculated by

the equation is 1.0. Affected reactor process facilities with a TRE index of less than or equal to 1.0 would be required to reduce VOC emissions by 98 weight-percent or to 20 ppmv, whichever is less, while affected facilities with a TRE index above 1.0 would not be required to comply with emission reduction requirements. The set of coefficients used in the equations that apply to a process vent stream can be obtained from Tables 1 and 2 of the regulation. These coefficients were derived directly from the cost and emission reduction equations associated with control of VOC emissions from reactor process facilities by flares and incinerators.

The standards require that a plant owner or operator calculate the TRE of the process vent stream based on the specific characteristics of the vent stream. If the vent stream contains halogenated VOC, the equation for determining the TRE value for incineration must be used, along with the appropriate coefficients (in Table 1) based upon vent stream heat content and flow rate. For vent streams containing nonhalogenated VOC, the plant owner or operator must calculate TRE values, using both the incineration equation and the equation for flares (selecting the appropriate set of coefficients in Table 1 or 2 based upon heat content and flow rate). After calculating both the incineration and flaring TRE values, the plant owner or operator must select the lowest TRE value for purposes of determining compliance with the standards. In most instances incinerators are more expensive than flares for controlling nonhalogenated vent streams; but in some instances the reverse is true. For this reason the regulation requires that the least expensive technique be used for TRE index calculation purposes. If this requirement did not exist, it is possible that a plant owner or operator could avoid the emission reduction requirements by not selecting the least costly control device in determining TRE.

The vent stream of an affected facility is considered "halogenated" under the proposed standards if it is determined to contain a concentration of halogenated compounds of 20 ppmv (by compound) or greater. This low 20 ppmv halogenation cutoff was chosen for the analysis to avoid control cost and TRE underestimates. Even small amounts of halogenated compounds may be corrosive and can necessitate incinerator temperatures greater than 870 °C to achieve a 98 weight-percent control. Therefore, it was judged

essential to set a low cutoff, so that the control cost and TRE would not be underestimated for any facility. This does not imply that flares, boilers, and process heaters are prohibited from use on streams containing more than 20 ppmv halogenated compounds.

The BDT selected allows flexibility in implementing the standards. For sources below the TRE index cutoff where the cost of combustion control is considered reasonable, BDT is the use of a control device capable of achieving a reduction of 98 weight-percent, or to 20 ppmv total organics (minus methane and ethane) whichever is less stringent. Control is achievable through the use of combustion devices such as incinerators, boilers, process heaters, and flares. Incinerators may be the only applicable combustion device for use on streams containing halogenated VOC. Above the TRE index cutoff, BDT is no additional control.

The use of a TRE index cutoff will also permit the use of recovery techniques or process modification in an effort to raise the TRE index to a point above the 1.0 cutoff. The parameters used to calculate the TRE index are measured at the outlet of the recovery system. Additional recovery can be used to change the values of the parameters (e.g., decrease the emission rate) and subsequently increase the TRE index value. The total cost to a facility for improved recovery to exceed the TRE cutoff may, in some cases, be much lower than the total cost of a flare, boiler, or incinerator. It may, therefore, be economically advantageous for such a facility to choose to improve its recovery system or make some other change within the process. The decision by the owner of a facility concerning the design and resulting VOC removal efficiency of a change within the process is primarily made prior to the construction, modification, or reconstruction of that facility. As a practical matter, EPA has no ability to assess the extent to which VOC removal efficiency is influenced by economic versus regulatory considerations. As such, the source's motivation for establishing a particular process design is not considered when the TRE index value is measured. Consider an example where the owner or operator of a facility chooses to improve the facility's recovery system. For this type of process change, EPA presumes that the recovery systems are integral to the process and that, therefore, BDT is best determined according to the characteristics of the stream existing the last recovery device.

I. Selection of Actual Standards

In summary, under the proposed standards, sources for which the costs of combustion control are reasonable would be subject to the following requirements: (1) A 98 weight-percent reduction of the total organic compounds (minus methane and ethane) in the reactor vent stream or a reduction to 20 ppmv total organic compound (minus methane and ethane), whichever is less stringent; and if a boiler or process heater is used to comply with the standards, the reactor vent stream must be introduced into the flame zone of the boiler or process heater, or (2) when a flare is used to comply with the standards, a smokeless flare is required and must be operated in accordance with the requirements in 40 CFR 60.18. As previously discussed, facilities with low flow rate (less than or equal to 0.011 scm/min) and facilities with low capacities (less than or equal to one Gg/year) would be exempt from these standards except for certain recordkeeping and reporting requirements.

For sources where the costs of control are not reasonable, the proposed standards would require that the TRE index be maintained at a value of 1.0 or above. This TRE concept is explained in Section H.

J. Compounds Used in Determining Compliance

The proposed standards are intended to reduce emissions of VOC through the application of BDT (considering costs and other impacts); and the emission limits in the standards are designed to reflect the performance of BDT. Where a control device for a reactor process is BDT, that control device (i.e., combustion) does not selectively control VOC (that is, the proportion of the organics that is regarded as photochemically reactive), but rather these technologies control all organic compounds. Moreover, the numerical values of the emission limits (98 weight-percent reduction and 20 ppmv) in the case of reactor processes, were based on total organic compounds data that excluded methane and ethane.

To reflect accurately the performance of these control devices and to make the emission limits consistent with the data and test methods from which the limits were derived, EPA has expressed the standards in terms of organic compounds, minus methane and ethane. For the same reason, the test procedure in the proposed standards prescribes measurement of total organic compounds, excluding methane and ethane. In short, EPA is relying on

control of total organic compounds, minus methane and ethane, as the best surrogate for controlling VOC, which react to form ozone in the atmosphere.

K. Modification/Reconstruction Considerations

The proposed standards would apply to all affected facilities which commenced construction, reconstruction, or modification after the date of proposal of the NSPS. Modification is defined in 40 CFR 60.14 as any physical or operational change to an existing facility which results in an increase in the emission rate to the atmosphere of any air pollutant to which a standard applies. (Section 60.14(e) lists the six exemptions which would not be considered modifications even if emissions increased.) Reconstruction, as defined in 40 CFR 60.15, occurs when components of an existing facility are replaced to such an extent that: (1) The fixed capital cost of the new components exceed 50 percent of the fixed capital cost that would be required to construct a comparable entirely new facility, and (2) it is technologically and economically feasible to meet the applicable standards.

Potential modifications involving SOCM reactor processes include process equipment changes, changes in operating parameters, or both. Two types of process changes that may result in modification are: (1) Feedstock (i.e., basic chemical) or reactant substitution in reactors which were not designed to accommodate the new feedstock or reactant, and (2) process equipment changes.

Many of the chemicals produced in reactors can be manufactured from two or more feedstocks. For example, cyclohexanone can be produced using either phenol (a reactor process reactant) or cyclohexanol (an air oxidation reactant). If a feedstock change were made and if: (1) Emissions increased, and (2) as required under § 60.14(e) the reactor was not designed to accommodate the feedstock change, the feedstock change would result in a modification. In the example cited above, all the reactors could have to be rebuilt, possibly requiring a capital expenditure in excess of 50 percent of the capital cost of the affected facility. In this case, a reconstruction could result, regardless of the emissions.

The second type of process change is a process equipment change. As discussed earlier, this type of change rarely occurs within the industry. Examples include the replacement of a fixed-bed reactor with a fluidized-bed reactor, the expansion in the size of a

reactor, or the replacement of an absorber or substitution of a condenser for an absorber in the gas treatment system. If any of these process equipment changes result in an increase in emissions, a modification could result; if any of the changes requires the expenditures of more than half of the replacement cost of the affected facility, then a reconstruction could occur.

L. Selection of Monitoring Requirements and Test Methods

Following is a discussion of the monitoring requirements and test methods selected for demonstrating compliance with both the emission reduction and the TRE provisions of the proposed standards.

Percent Reduction/Concentration Limit

The combined gas chromatograph/flame ionization detection method (GC/FID) (Reference Method 18) is the best available procedure for determining emissions from reactor process facilities. It has the advantage of being able to measure individual organic compounds. Details concerning the use of this methodology, including sampling, analysis, preparation of standards, calibration procedures, and reporting of results are discussed in Reference Method 18, "Measurement of Gaseous Organic Compound Emissions by Gas Chromatography," which was promulgated with the NSPS for SOCM equipment leaks (48 FR 48328).

The owner or operator of a facility using an incinerator to comply with the proposed 98 weight-percent/20 ppmv emission limit would be required to determine compliance according to Reference Method 18 during any performance test. Reference Method 1 or 1A would be required, as appropriate, to be used for selection of the sampling site. The control device inlet sampling site for determination of reduction efficiency would be required to be prior to the inlet of any control device and after all product recovery devices. Reference Methods 2, 2A, 2C, or 2D would be required, as appropriate, to be used for determination of the volumetric flow rate. Reference Method 3 would be required to be used for an air dilution correction, based on 3 percent oxygen in the emission sample.

If any process vent stream(s) from outside the affected facility were normally routed through the product recovery system or directly to the control device of the affected facility, the proposed standards would permit such a stream to be routed normally during any performance test to determine compliance with the proposed reduction requirement. The Agency

considered requiring such streams to be rerouted or turned off, in order to assure that 98 weight-percent reduction or reduction to 20 ppmv would be achieved for control of the reactor process stream itself. However, the Agency determined that if a performance test conducted on such a facility while routing its vent streams from a nonaffected facility showed compliance with the proposed emission limit, that limit would also be achieved by the combustion device when only the reactor process vent stream is routed through it, provided that the combustion device operating parameters, such as temperature and residence time, remained unchanged. Therefore, the Agency concluded that requiring the nonaffected facility process stream to be rerouted or turned off during a performance test would be unnecessary.

The Agency believes that boilers and process heaters with a design heat input capacity of 44 MW (150 million Btu/hr) or greater would achieve a reduction efficiency of 98 weight-percent or reduction to 20 ppmv, so long as the reactor process stream is introduced into the flame zone. Therefore, the Agency believes that an initial measurement of control efficiency would not be necessary for boilers of this size. As explained in the discussion of combustion kinetics given in the BLD, a firebox temperature of 1,100 °C and 1 second residence time represent the conditions that might, in the worst case, be necessary to achieve 98 weight-percent reduction, even if the organics were halogenated. Boilers (and process heaters) with a design heat input capacity of 44 MW or greater are operated at temperatures and residence times greater than 1,100 °C and 1 second, respectively. In some cases, the residence time is less than 1 second. However, in these cases, the firebox temperature is much greater than 1,100 °C, and 98 weight-percent reduction would still be achieved.) Other than an adequately high temperature and residence time, the two primary conditions necessary for high combustion device control efficiency are stable flow rate and adequate mixing of gases. It is the economic advantage of the owners of facilities using boilers or process heaters to design and operate them with stable flow rates to avoid upsets. For the same reason, such devices would be designed and operated with adequate mixing of gases to maximize the extent of the combustion efficiency, thereby maximizing the steam or heat generation rate.

For these reasons, the Administrator has decided that using a boiler or heater with a design heat input capacity of 44

MW or greater to control VOC emissions from reactor process operations is an acceptable means of demonstrating compliance with the proposed standards if the vent stream is introduced into the flame zone. Therefore, in accordance with § 60.8(b), the Administrator has waived the requirement for a performance test on such devices. An initial report is required within 180 days of start-up, describing the location at which the vent stream is introduced into the boiler or process heater. The reference methods applicable to incinerators described below apply to the smaller (i.e., less than 44 MW) boiler and process heaters.

As explained under *Selection of Format for the Standards*, an operational standard was selected for cases where a flare is used to meet the standards. Therefore, a performance test measuring percent reduction is not required for streams equipped with flares. However, the standard requires that the flare operate in accordance with the requirements in 40 CFR 60.18. Flow rate and heat content of the flared stream are to be determined in accordance with the procedures prescribed in § 60.703.

Incinerators used to comply with the proposed emission limit need to be maintained and operated properly if either a 98 weight-percent reduction or reduction to 20 ppmv is to be achieved on a continuing basis. Monitoring can generally be used to ensure such proper operation and maintenance are occurring. Two methods of monitoring to ensure the proper operation and maintenance of the control equipment used to comply with the proposed emission limit were considered. These methods were continuous emission monitoring and continuous combustion control device parameter measurement. Examples of such parameters are combustion temperature and vent stream flow.

Continuous combustion control device inlet and outlet emission monitoring would be the preferred method of monitoring, because it would provide a continuous, direct measurement of actual emissions. However, no continuous monitor measuring total organics (minus methane and ethane) has been demonstrated for incinerators because each of the many different compounds in reactor process vent streams would have to be identified separately and the concentrations of each determined. Therefore, the Administrator has determined that continuous monitoring of compliance with the proposed standards is not feasible.

Provided that combustion parameters that accurately reflect the level of combustion device efficiency can be identified and monitored continuously, monitoring of such parameters alone would have several advantages, such as low cost and high reliability. However, a disadvantage of combustion parameters monitoring alone is that the correlation of the parameters with the numerical emission limit is not exact. However, exact correlation is not necessary if the parameter monitored would demonstrate proper operation and maintenance of the control device.

The combustion device operating parameters that affect incinerator performance were analyzed. These variables are temperature, mixing, type of compound, residence time, inlet concentration, and flow regime. Of these variables, the inlet concentration was judged to have only a small impact on incinerator performance (provided reactor vent concentrations are at least 2,000 ppmv). Residence time is essentially set after incinerator construction unless the vent stream flow rate is changed. At temperatures above 760 °C, the compound type has little effect on combustion efficiency. Temperature and flow rate were then analyzed in more detail to define their impact on performance and the ability to monitor them.

Temperature was analyzed first. Test results and theoretical calculations show that lower temperature can cause significant decreases in control device efficiency. Test results also indicate that temperature increases can also adversely affect control device efficiency, apparently by decreasing the thoroughness of mixing of process vent gases, burner gases, and combustion air. In terms of cost, temperature monitors are relatively inexpensive, costing less than \$5,000 installed with strip charts, and are easily and cheaply operated. Given the large effect of temperature on efficiency and the low cost of temperature monitors, this variable is clearly an effective parameter to monitor. The proposed standards would, therefore, require the owner or operator of an affected facility using a thermal incinerator to comply with the proposed 98 weight-percent/20 ppmv emission limit to install, calibrate, maintain, and operate according to manufacturer's specifications a temperature measurement device. This device would be required to be equipped with a continuous recorder and have an accuracy of 1 percent of the temperature being measured, expressed in degrees Celsius, or ± 0.5 °C, whichever is greater. The device would be required to

be installed in the firebox. If a catalytic incinerator were used, the temperature measuring device would be required to be installed in the gas stream immediately before and after the catalyst bed.

Flow rate of the reactor process vent stream to the combustion device was the next parameters to be analyzed as a potential monitoring parameter. Where a combustion device is used to incinerate VOC streams alone, total flow rate into the unit can provide useful information regarding destruction efficiency since it relates to residence time in the combustion device. Reactor process vent stream flow rates can be small in comparison to other streams that may also be ducted to the same combustion device. Since total flow rate must be monitored in order to provide reliable information, and reactor vents may be combined with other nonreactor vents, then the monitoring requirements would be applied to vents that were not intended to be covered by the standards. Flow indicators, as opposed to flow rate monitors, are relatively inexpensive and easy to operate. Therefore, because it gives an indication that the organic-laden stream is being routed for destruction and it is monitored inexpensively, indication of flow is also an effective parameter to monitor for combustion devices.

The proposed standards would, therefore, require the operator of an affected facility using an incinerator to comply with the proposed emission limit to install, calibrate, maintain, and operate a flow indicator, according to the manufacturer's specifications. The flow indicator would be required to be installed at the combustion device inlet.

These two combustion parameters (temperature and flow) would be required to be monitored during the original (or most recent) performance test. Temperature would then be monitored to determine if it deviated from the values measured during the performance test. Flow indicators would be required to determine whether the vent stream was being continuously routed for destruction.

If a reactor process vent stream is introduced into the flame zone of a boiler (or process heater) of any size, it is necessary, for the purpose of ensuring proper operation and maintenance, to know that the boiler (or process heater) is operating and to know that the vent stream is being introduced into the boiler (or process heater). The maintenance of records (such as steam production records) would be required that would indicate the periods of operation of the boiler (or process

heater). The Administrator must be notified if the location at which the vent stream is introduced into a boiler or process heater is changed after the initial performance test. The nature of the records to be kept to comply with this requirement are left to the discretion of the owner or operator of the facility, but they must be readily available for inspection. To ensure that the vent stream is being introduced into the boiler (or process heater), the proposed standards require owners or operators to install and operate a flow indicator that provides a record of vent stream flow to the boiler (or process heater).

For heat generating units (boilers and process heaters) of less than 44 MW (150 million Btu/hr) heat input design, performance testing is required to ensure efficient VOC destruction. For these units, just as for incinerators, temperature would be required to be measured during the original (or most recent) performance test and to be monitored to determine if it deviated from the values measured during the performance test. Monitoring of temperature would not be required for heat generating units with a design heat capacity of 44 MW or greater.

A flare will be in compliance with the proposed standards provided it is operating in accordance with 40 CFR 60.18 (i.e., it is operating smokelessly (no more than 5 minutes of visible emissions from any 2-hour period), a flame is present, the minimum heat content requirements for the flared gas are met, and a maximum exit gas velocity is not exceeded). Because flares are not enclosed combustion devices, it is not feasible to measure combustion parameters. Moreover, temperatures and residence times are more variable throughout the combustion zone for flares than for enclosed devices and, therefore, such measurements would not necessarily provide a good indicator of flare performance even if measurable. The typical method of monitoring continuous operation of a flare is visual inspection. However, if a flare is operating smokelessly, it can be difficult to visually determine if a flame is present. The presence of a flame can also be determined through the use of a heat sensing device on a flare's pilot flame, such as a thermocouple or ultraviolet (U-V) beam sensor. If a flame is absent, the temperature probe can be used to alert the plant operator. The cost of available thermocouple sensors ranges from \$800 to \$3,000 per pilot. (The more expensive sensors in this price range have elaborate automatic relight and alarm systems.) The cost of a U-V

sensor is approximately \$2,000. While U-V sensors are designed primarily to monitor flames within enclosed combustion devices, they can be applied to open flames so long as any outside interferences are corrected for. The use of either thermocouples or U-V sensors is suitable for indication of the presence of a flame. The proposed standards would require continuous monitoring to indicate the presence of a flame to ensure proper operation and maintenance of a flare, but the standards do not specify a particular monitoring technique.

Among the criteria governing the use of flares under the proposed standards is maximum exit gas velocity requirement. Compliance with this requirement is determined by performance testing. Methods 2, 2A, 2C, or 2D (see § 60.704) are used in performance tests to determine the actual exit velocity of flares. These tests must be performed under representative flare operating conditions. Exceedances of velocity limitations during periods in which one or more processes (that vent to the flare) start-up, shutdown, and malfunction are not considered a violation (see § 60.8(c)). These tests are used to ensure that the flare is designed to be and is capable of being operated within the velocity limitation during representative process conditions. During nonperformance test periods, operators must maintain and operate flares used to comply with Subpart RRR in a manner consistent with good air pollution control practices for minimizing emissions, even during periods of start-up, shutdown and malfunction (see § 60.11(d)).

The formula specified at § 60.704 requires that Method 2, 2A, 2C, or 2D be used as the test method to determine the volumetric flow rate. This flow rate should be determined in the flare header or headers that feed the flare because the volumetric flow rate determined in these headers reflects the flow rate in the flare. After this flow rate is determined, an operator would use design and engineering principles to determine the unobstructed cross-sectional area of the flare tip. With these two factors, the actual exit velocity is determined.

The TRE Index Cutoff

Calculation of the TRE index value for an affected facility is dependent upon measurement of the process vent gas volumetric flow rate, net heating value, total organic compound emission rate, and corrosion properties (presence or absence of halogenated compounds into the stream, and also prior to the inlet of any combustion device). Subject to the

requirements just mentioned, the sampling site would also be required to be downstream of all product recovery equipment except as discussed in the remainder of this section. In the situation where vent streams from new and existing reactors are ducted to a common product recovery system, a single TRE measurement is required downstream of the common product recovery system for the control of the combined new and existing reactor vent streams.

The final piece of recovery equipment will not always be associated with only the affected facility; it can sometimes include nonreactor process facilities. These are configurations that could influence the location and number of sampling sites required. One possible exception to the previous discussion involves a vent stream from an affected facility that is normally routed through a final recovery system that is shared with a nonreactor process gas stream. The Agency considered whether or not to require in the proposed standards that such nonreactor process streams be bypassed during any test to determine the TRE index. The efficiency of the recovery system including both the reactor and the nonreactor process vent stream would often be different from the efficiency of similar devices designed to handle each vent stream separately. Furthermore, it is reasonable to conclude that, especially for recovery devices, their design would be different for reactor and nonreactor vent streams constituents. Therefore, for purposes of determining compliance with the TRE index cutoff of such cases, the Agency requires that the TRE index be determined based upon the portion of the recovery outlet stream contributed by the reactor process facility alone. Thus, it is necessary to locate sampling sites directly upstream and downstream of the recovery system (to determine that overall control efficiency for the device or devices) and also directly downstream of the reactor process facility. In all cases, compliance with the TRE index cutoff would be determined for the total portion of the vent stream contributed by a reactor facility by determining the effects of the overall efficiency of the device upon the characteristics of the vent stream determined from the upstream sampling site (or sites) and by measuring flow rate and molar composition at a point just downstream of each affected facility (i.e., downstream of the final recovery device).

For any sampling site, the volumetric flow rate would be required to be determined according to Reference

Methods 2, 2A, 2C, or 2D, as appropriate. The molar composition of the offgas stream, including the total molar concentration of halogenated compounds, would be required to be calculated according to the proposed Reference Method 18, Measurement of Gaseous Organic Compound Emission by Gas Chromatography. The water vapor concentration of the vent stream would be required to be calculated according to Reference Method 4.

The net heating value of the process vent stream (25 °C, 760 mm Hg) would be required to be calculated according to an equation specified in the regulation. This equation would make use of the molar composition of the process vent stream, as measured by Reference Methods 4 and 18. The net heat of combustion of each vent stream component would be required to be determined using ASTM D2382-76 if published values are not available or cannot be calculated. This method of determining net heating value was chosen because it would not require a separate test procedure from that required for determination of reduction efficiency and offgas halogenation. Moreover, the Agency believes that the proposed method for determining net heating value would be more accurate than any available direct experimental measure, such as bomb calorimetry.

The total organic mass emission rate of the process vent stream would also be required to be calculated according to an equation specified in the regulation. This equation would make use of the molar composition of the offgas stream, as measured by Reference Method 18, and of the volumetric flow rate, as measured by Reference Method 2.

After an initial performance test to determine compliance with the proposed TRE index cutoff value, variations in process parameters, process modifications or improper operation or maintenance of recovery equipment could lead to higher emissions and a true TRE index below the cutoff. Some method is necessary to determine if the TRE index measured during the initial performance test has changed. Methods considered were continuous monitoring of selected operating parameters of the final piece of product recovery equipment in the affected facility and periodic performance testing of the TRE index of the facility. As explained previously, continuous vent stream molar composition and flow rate monitoring are not feasible. The first method investigated for determining if the initial TRE index had changed, involved the monitoring of product

recovery device parameters. The operating parameters of the three types of product recovery equipment commonly used in reactor processes were analyzed for correlation with product recovery device operation and maintenance, which in turn would give an indication of changes in TRE index. The three types of product recovery equipment are absorbers, condensers, and carbon adsorbers.

For an absorber, two operating parameters were identified as the primary determinants of product recovery device operations: absorbing liquid temperature and specific gravity (or some other parameter used by a facility to measure absorbing liquid saturation). In the absence of the proposed standard, facilities employing an absorber for product recovery would, in general, monitor continuously some parameter related to the degree of saturation of absorbing liquid with recovered material. Specific gravity is one such parameter that is frequently monitored. Absorbing liquid temperature monitors and specific gravity measurement devices are available at a reasonable cost. The estimated one-time combined capital investment for such equipment is \$8,000. These absorption parameters would be required to be measured during each performance test. (If approved by the enforcing Agency, an alternate parameter that would indicate the degree of absorbing liquid saturation could be measured during each performance test.) These absorption parameters would then be monitored to determine if any value had changed since the performance test. This monitoring would indicate whether the absorber was being operated and maintained properly. Therefore, an operator of an affected facility for which an absorber was the final device in the product recovery system would be required to install, calibrate, maintain, and operate according to a manufacturer's specifications an absorbing liquid temperature monitor and specific gravity measurement device (or an alternate device that would measure the degree of absorbing liquid saturation, if approved by the enforcing agency), each recorded continuously.

For a condenser, the exit (product side) temperature of the offgas was identified as the primary determinant of product recovery device operation. Condenser temperature monitors are available at a reasonable cost. The estimated one-time capital investment for such equipment is \$3,000. The condenser exit (product side) temperature would be required to be

measured during each performance test. The temperature would then be monitored to determine if the value had changed since the most recent performance test. This monitoring would indicate whether the condenser was being operated and maintained properly. Therefore, an operator of an affected facility for which a condenser was the final device in the product recovery system would be required to install, calibrate, maintain, and operate according to manufacturer's specifications a condenser temperature monitor equipped with a continuous recorder.

For a carbon absorber, the carbon bed temperature (after regeneration and completion of any cooling cycle), as well as the amount of steam used to regenerate the adsorption bed, were identified as the primary determinants of product recovery device operation. Steam flow meters that indicate the quantity of steam used over a period of time and bed temperature monitors are available at a reasonable cost. The estimated one-time capital investment for such equipment is \$10,000. These adsorption parameters would be required to be measured during each performance test. These adsorption parameters would then be monitored to determine if any value had changed since the most recent performance test. This monitoring would indicate whether the carbon adsorption unit was being operated and maintained properly. Therefore, an operator of an affected facility for which a carbon adsorber is the final unit of the product recovery system would be required to install, calibrate, maintain, and operate according to manufacturer's specifications an integrating steam flow meter and a carbon bed temperature measurement device, each equipped to be recorded continuously.

Some carbon absorbers, adsorbers, and condensers may include vent stream organic concentration monitors to aid operators maximizing the recovery of raw materials or products. Such devices equipped with a continuous recorder may be used as an alternative to monitoring the other operating parameters for absorbers, adsorbers, and condensers specified in the regulation.

The enforcement agency would specify, on a case-by-case basis, appropriate monitoring procedures or requirements where the owner or operator of an affected facility uses emission control or product recovery techniques other than those specified to comply with the proposed standards.

The Agency has determined that an affected facility with a TRE index value greater than 8.0 could not lower its TRE index value below 1 without a process change. Therefore, facilities with TRE index values greater than 8.0 are exempt from the monitoring, recordkeeping and reporting requirements other than the initial performance test requirements unless a process change is made to the facility. If a process change occurs, the TRE index value would have to be recalculated. If the recalculated TRE index value is below or equal to 8.0 and greater than 1.0, the facility would have to comply with the monitoring, recordkeeping, and reporting requirements of the standards.

M. Reporting and Recordkeeping Requirements

The General Provisions for the NSPS regulations (40 CFR part 60, subpart A) require submittal of several one-time notifications for occurrences such as construction, modification, reconstruction, scheduled dates for performance tests, and performance test results. Owners and operators of boilers and process heaters with design heat input capacities of 44 MW (150 million Btu/hr) or greater would not report performance test results, since the proposed standards would waive the requirement of such a test. Instead, operators would be required to file an initial report describing the location at which the reactor vent stream is introduced into the boiler (or process heater) to be used. Owners and operators of flares used to comply with the proposed standards would be required to file an initial report on the results of performance testing to determine compliance with the visible emission requirements and the heat content and maximum exit gas velocity criteria for flares.

The proposed standards exempt reactor process facilities from the quarterly report required by the General Provisions. However, records of start-up, shutdown, and malfunction would still be required. Also, records indicating whether control equipment is being operated and maintained properly would be required. The proposed standards would require owners or operators of those facilities, exempted because their operational flow rate was less than 0.011 scm/min, to send an initial report to the Administrator containing a measurement of the operating flow rate, maintain records of and report semiannually if any changes in equipment process operation occur that would increase their flow rate above 0.011 scm/min. Similarly, owners

or operators of those facilities that would be excluded from control requirements because the process unit in which they are located has a design capacity below 1 Gg/yr, would be required to send an initial report to the Administrator of the design production capacity. They would also be required to record and report changes that increase their process unit capacities above the one Gg/yr cutoff.

Records indicating proper operation and maintenance would be based on the monitoring of control device or recovery device parameters discussed in the previous section. Two types of records would be required. The first would be the monitoring results themselves. This information can be automatically recorded, and therefore, essentially the only labor necessary for keeping these records would consist of filing automatically recorded parameters. The second type of record would be a tabulation of periods when the measurements of these automatically recorded parameters significantly deviated from measurements of the same parameters during the most recent performance test. Although this requires more effort, it is a necessary step for both the owner or operator and enforcement agency to ensure that the control equipment is being operated and maintained properly. This information would be necessary for the owner or operator to know when to make necessary corrections to the control equipment. For this second type of record it would be necessary for the owner or operator to record control device or product recovery equipment operating parameters, as appropriate, during all performance tests and keep these records for purposes of comparison. The owner or operator would not be required to record all deviations from these measurements, but only certain deviations as listed in the proposed regulation. All records would be required to be kept up to date and in readily accessible files for 2 years. The parameter boundaries included in the proposed regulation would allow for normal fluctuations in operation of the equipment monitored. The VOC reduction efficiency of the control device would not be affected by such normal fluctuations.

Where a recovery system is used to comply with the proposed TRE index value, the proposed standards would also require recording of any change in production capacity; feedstock; type of catalyst; or of the replacement, removal, or additional of product recovery equipment. When any such change occurs, the TRE index value would have

to be recalculated to document that the facility continues to have a TRE index value above 1.0. Such recalculation can be based on the best engineering estimates of the effects of the change or on emission test data. A record would be maintained of the recalculated TRE value. If the recalculated TRE index value for the facility is below 1.0, the owner, or operator of the facility would have to demonstrate compliance with the 98 weight-percent reduction or 20 ppmv emission limits. Performance tests must be conducted as soon as possible after the process change but no later than 180 days from the time of the process change.

If the initial TRE index value for a facility were above 8.0 and the recalculated value were below or equal to 8.0 but greater than 1.0, the facility must report the recalculated TRE index value to the Administrator as soon as possible after the change and no later than 180 days after the change. In addition, a performance test must be completed within the same time period to verify the recalculated value and to obtain the initial operating parameters. The performance test is subject to the requirements of § 60.8 of the General Provisions. The facility must begin complying with the monitoring, recordkeeping, and reporting requirements immediately after the performance test.

In addition to the one-time notifications and performance test reports discussed above, semiannual reporting of recorded data would be required for instances where monitored parameters exceed the allowable limitations set forth in the standards. These data include the operating parameters cited above for combustion and other control devices. Other instances that would be reported semiannually are periods of no flow to control devices used for compliance with the standards and periods where there is no flame present for flares used for compliance with the standards. The requirement for semiannual reporting, however, is waived for affected facilities in States where the program has been delegated, if EPA, in the course of delegation, approves reporting requirements or an alternative means of source surveillance adopted by the State. Such affected facilities would be required to comply with the requirements adopted by the State.

During the first 3 years of this regulation, the average annual burden of the reporting and recordkeeping requirements would be 7.9 person-years, based on an average of 27 respondents per year.

V. Administrative Requirements

A. Public Hearing

A public hearing will be held, if requested, to discuss the proposed standards in accordance with section 307(d)(5) of the CAA. Persons wishing to make oral presentations should contact EPA at the address given in the ADDRESSES section of the preamble. Oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement before, during, or within 30 days after the hearing. Written statements should be addressed to the Central Docket Section address given in the ADDRESSES section of the preamble.

A verbatim transcript of the hearing and written statements will be available for public inspection and copying during normal working hours at the EPA's Central Docket Section in Washington, DC (see the ADDRESSES section of this preamble).

B. Docket

The docket is an organized and complete file of all the information submitted to, or otherwise considered in, the development of this proposed rulemaking. The principal purposes of the docket are: (1) To allow interested parties to identify and locate documents so that they can effectively participate in the rulemaking process, and (2) to serve as the record in case of judicial review (except for interagency review materials as noted in Section 307(d)(7)(A)).

C. Clean Air Act Procedural Requirements

Administrator Listing—Section 111. As prescribed by section 111 of the CAA, as amended, establishment of standards of performance for SO₂ reactor process units was preceded by the Administrator's determination (40 CFR 60.16, 44 FR 49222, dated August 21, 1979) that SO₂ contributes significantly to air pollution which may reasonably be anticipated to endanger public health or welfare.

Periodic Review—Section 111. This regulation will be reviewed within 4 years from the date of promulgation as required by the CAA. This review will include an assessment of such factors as the need for integration with other programs, the existence of alternative methods, enforceability, improvements in emission control technology, and reporting requirements.

External Participation—Section 117. In accordance with Section 117 of the Act, publication of this proposal was preceded by consultation with

appropriate advisory committees, independent experts, and Federal departments and agencies. In addition, numerous meetings were held with industry representatives and trade associations during development of the proposed standards. The Administrator will welcome comments on all aspects of the proposed regulation, including economic and technological issues.

Economic Impact Assessment—Section 317. Section 317 of the CAA requires the Administrator to prepare an economic impact assessment for any NSPS promulgated under section 111(b) of the Act. An economic impact assessment was prepared for the proposed regulations and for other regulatory alternatives. All aspects of the assessment were considered in the formulation of the proposed standards to ensure that the proposed standards would represent the best system of emission reduction considering costs. The economic impact assessment is included in the BID.

D. Office of Management and Budget Reviews

1. Paperwork Reduction Act

There are no reporting requirements by other governmental agencies for the information required by these standards which would result in overlapping requirements. In particular, there is no overlap with the reporting requirements of the Superfund program. The Superfund program was established in 1980 by the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, Pub. L. 96-510) and authorizes the Federal government to respond directly to releases (or threatened releases) of hazardous substances and pollutants or contaminants to any media that may endanger public health or welfare. Under the notification and liability provisions of section 103 (see 48 FR 23552, May 25, 1983), CERCLA requires that persons in charge of vessels or facilities from which hazardous substances have been released in quantities that are equal to, or greater than, the reportable quantities immediately notify the National Response Center of the release (800-424-8802; in Washington, DC, metropolitan area 202-426-2675). However, air releases which qualify as Federally permitted releases, such as VOC emissions that are regulated under section 111 of the Clean Air Act, are not subject to the notification or liability provisions of CERCLA unless the air releases are in excess of the allowable NSPS emissions by an amount equal to

or greater than the reporting quantity; in this case, persons in charge must report the excess air releases to the National Response Center. (Reporting under CERCLA does not excuse the persons in charge from any responsibility, including reporting, or liability under the NSPS program.)

The information collection requirements in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq* and has been assigned an OMB control number. Comments on these requirements should be submitted for approval to the Office of Information and Regulatory Affairs of OMB; 726 Jackson Place, NW.; Washington, DC 20503 marked "Attention: Desk Officer for EPA." The final rule will respond to any OMB or public comments on the information collection requirements.

Public reporting burden for this collection of information is estimated to be 15,771 hours per year, with an average of 584 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Information Policy Branch PM-223, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

2. Executive Order 12291 Review

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This proposed regulation is not major because: (1) The national annualized control costs, including capital charges resulting for the standards total less than \$100 million; (2) the standards do not cause a major increase in prices or production costs for most of the chemicals considered; and (3) given the low levels of investment required and the small price increases estimated for chemicals with low TRE values, the effects of the regulation on domestic competition, employment, investment, productivity, innovation, and competition in foreign markets will be negligible.

This regulation was submitted to OMB for review as required by Executive Order 12291. Any written

comments for OMB and any written responses by EPA will be included in Docket A-83-29. This docket is available for public inspection at EPA's Central Docket Section, which is listed under the ADDRESSES section of this notice.

E. Regulatory Flexibility Act Compliance

The Regulatory Flexibility Act (Pub. L. 96-354, September 19, 1980) requires that special consideration be given to the impacts of all Federal regulations on small businesses, small governments, and small organizations. These standards will have no known effects on small governments and small organizations. Some small businesses may be affected. However, the economic analysis described above indicates that these standards will have no significant, adverse economic impact on firms producing affected chemicals, regardless of firm size. Furthermore, no burden will be placed upon small businesses disproportionate to their potential contribution to VOC emissions.

The price increase screening analysis uses many conservative control cost assumptions and demonstrates that not even small plants should incur control costs in excess of 5 percent of production costs. There should be no capital availability or industrial growth problems associated with these standards. Thus, no significant, adverse economic impacts on small businesses are anticipated.

No burden will be placed on any firm disproportionate to the VOC that it would emit in the absence of these standards. This is ensured by application of the TRE index, which identifies facilities that would emit a substantial amount of reasonably controllable VOC in the absence of these standards.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this rule will not have a significant impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 60

Air pollution control, Reporting and recordkeeping requirements. Incorporation by reference, Intergovernmental relations, SOCM.

Dated: June 13, 1990.
William K. Reilly,
Administrator.

PART 60—[AMENDED]

It is proposed that 40 CFR part 6 be amended as follows:

1. The authority citation for part 60 continues to read as follows:

Authority: Secs. 101, 111, 114, 116, and 301 of the Clean Air Act (CAA) as amended (42 U.S.C. 7401, 7411, 7416, 7601).

2. By adding a new subpart RRR to read as follows:

Subpart RRR—Standards of Performance for Volatile Organic Compound (VOC) Emissions from Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes

Sec.

- 60.700 Applicability and designation of affected facility.
- 60.701 Definitions.
- 60.702 Standards.
- 60.703 Monitoring of emissions and operations.
- 60.704 Test methods and procedures.
- 60.705 Reporting and recordkeeping requirements.
- 60.706 Reconstruction.
- 60.707 Chemicals affected by subpart RRR.
- 60.708 Delegation of authority.

Subpart RRR—Standards of Performance for Volatile Organic Compound (VOC) Emissions from Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes

§ 60.700 Applicability and designation of affected facility.

(a) The provisions of this subpart apply to each affected facility designated in paragraph (b) of this section that produces any of the chemicals listed in § 60.707 as a product, co-product, by-product, or intermediate, except as provided in paragraph (c) of this section.

(b) The affected facility is any of the following for which construction, modification, or reconstruction commenced after June 29, 1990.

(1) Each reactor process not discharging its vent stream into a recovery system.

(2) Each combination of a reactor process and the recovery system into which its vent stream is discharged.

(3) Each combination of two or more reactor processes and the common recovery system into which their vent streams are discharged.

(c) Exemptions from the provisions of paragraph (a) of this section are as follows:

(1) Any reactor process that is designed and operated as a batch operation is not an affected facility.

(2) Each affected facility that has a total resource effectiveness (TRE) index value greater than 8.0 is exempt from all provisions of this subpart except for §§ 60.702; 60.704(d), (e), and (f); and 60.705 (h) and (l).

(3) Each affected facility in a process unit with a total design capacity for all chemicals produced within that unit of

less than 1 gigagram per year is exempt from all provisions of this subpart except for the recordkeeping and reporting requirements in paragraphs (j), (l)(6), and (n) of § 60.705.

(4) Each affected facility operated with a vent stream flow rate less than 0.011 scm/min is exempt from all provisions of this subpart except for the test method and procedure and the recordkeeping and reporting requirements in § 60.704(g) and paragraphs (i), (l)(5), and (o) of § 60.705.

(Note: The intent of these standards is to minimize the emissions of VOC through the application of best demonstrated technology (BDT). The numerical emission limits in these standards are expressed in terms of total organic compounds (TOC) measured as TOC less methane and ethane. These emission limits reflect the performance of BDT.)

§ 60.701 Definitions.

As used in this subpart, all terms not defined here shall have the meaning given them in the Act and in subpart A of part 60, and the following terms shall have the specific meaning given them.

Batch process means any noncontinuous reactor process which is not characterized by steady-state conditions and in which reactants are not added and products are not removed simultaneously.

Boiler means any enclosed combustion device that extracts useful energy in the form of steam.

By compound means by individual stream components, not carbon equivalents.

Continuous recorder means a data recording device recording an instantaneous data value at least once every 15 minutes.

Flame zone means the portion of the combustion chamber in a boiler occupied by the flame envelope.

Flow indicator means a device which indicates whether gas flow is present in a vent stream.

Halogenated vent stream means any vent stream determined to have a total concentration (by volume) of compounds containing halogens of 20 ppmv (by compound) or greater.

Incinerator means any enclosed combustion device that is used for destroying organic compounds and does not extract energy in the form of steam or process heat.

Process heater means a device that transfers heat liberated by burning fuel to fluids contained in tubes, including all fluids except water that is heated to produce steam.

Process unit means equipment assembled and connected by pipes or ducts to produce, as intermediates or final products, one or more of the

chemicals in § 60.707. A process unit can operate independently if supplied with sufficient feed or raw materials and sufficient product storage facilities.

Product means any compound or chemical listed in § 60.707 which is produced for sale as a final product as that chemical, or is used for the production of other chemicals or compounds. By-products, co-products, and intermediates are considered to be products.

Reactor processes are unit operations in which one or more chemicals, or reactants other than air, are combined or decomposed in such a way that their molecular structures are altered and one or more new organic compounds are formed.

Recovery device means an individual unit of equipment, such as an absorber, carbon adsorber, or condenser, capable of and used for the purpose of recovering chemicals for use, reuse, or sale.

Recovery system means an individual recovery device or series of such devices applied to the same vent stream.

Total organic compounds (TOC) means those compounds measured according to the procedures in § 60.704(b)(4). For the purpose of measuring molar composition as required in § 60.704(d)(2)(f); and hourly emissions rate as required in § 60.704(d)(5), and § 60.704(d)(6); and TOC concentration as required in § 60.705(b)(4) and § 60.705(g)(4), those compounds which the Administrator has determined do not contribute appreciably to the formation of ozone are to be excluded.

TRE index value means a measure of the supplemental total resource requirement per unit reduction of TOC associated with an individual vent stream from an affected reactor process facility based on vent stream flow rate, emission rate of TOC, net heating value, and corrosive properties (whether or not the stream contains halogenated compounds), as quantified by the equation given under § 60.704(e).

Vent stream means any gas stream discharged directly from a reactor to the atmosphere or indirectly to the atmosphere after diversion through other process equipment. The vent stream excludes relief valve discharges and equipment leaks including, but not limited to, pumps, compressors, and valves.

§ 60.702 Standards.

Each owner or operator of any affected facility which is subject to the requirements of this subpart shall comply with paragraph (a), (b), or (c) of

this section for each vent stream on and after the date on which the initial performance test, required by § 60.8 and § 60.704, is completed, but not later than 80 days after achieving the maximum production rate at which the affected facility will be operated, or 180 days after the initial start-up, whichever date comes first. Each owner or operator shall:

(a) Reduce emissions of TOC (less methane and ethane) by 98 weight-percent, or to a TOC (less methane and ethane) concentration of 20 ppmv, on a dry basis corrected to 3 percent oxygen, whichever is less stringent. If a boiler or process heater is used to comply with this paragraph, then the vent stream shall be introduced into the flame zone of the boiler or process heater.

(b) Combust the emissions in a flare. Flares used to comply with this subpart shall comply with the requirements of § 60.18.

(c) Maintain a TRE index value greater than 1.0 without use of a VOC emission control device.

§ 60.703 Monitoring of emissions and operations.

(a) The owner or operator of an affected facility that uses an incinerator to seek to comply with the TOC emission limit specified under § 60.702(a) shall install, calibrate, maintain, and operate according to manufacturer's specifications the following equipment:

(1) A temperature monitoring device equipped with a continuous recorder and having an accuracy of ± 1 percent of the temperature being monitored expressed in degrees Celsius or $\pm 0.5^\circ\text{C}$, whichever is greater.

(i) Where an incinerator other than a catalytic incinerator is used, a temperature monitoring device shall be installed in the firebox.

(ii) Where a catalytic incinerator is used, temperature monitoring devices shall be installed in the gas stream immediately before and after the catalyst bed.

(2) A flow indicator that provides a record of vent stream flow to the incinerator at least once every hour for each affected facility. The flow indicator shall be installed in the vent stream from each affected facility at a point closest to the inlet of each incinerator and before being joined with any other vent stream.

(b) The owner or operator of an affected facility that uses a flare to seek to comply with § 60.702(b) shall install, calibrate, maintain and operate according to manufacturer's specifications the following equipment:

(1) A heat sensing device, such as a ultra-violet beam sensor or thermocouple, at the pilot light to indicate continuous presence of a flame.

(2) A flow indicator that provides a record of vent stream flow to the flare at least once every hour for each affected facility. The flow indicator shall be installed in the vent stream from each affected facility at a point closest to the flare and before being joined with any other vent stream.

(c) The owner or operator of an affected facility that uses a boiler or process heater to seek to comply with § 60.702(a) shall install, calibrate, maintain, and operate according to the manufacturer's specifications the following equipment:

(1) A flow indicator that provides a record of vent stream flow to the boiler or process heater at least once every hour for each affected facility. The flow indicator shall be installed in the vent stream from each affected facility at a point closest to the inlet of each boiler or process heater and before being joined with any other vent stream.

(2) A temperature monitoring device in the firebox equipped with a continuous recorder and having an accuracy of ± 1 percent of the temperature being measured expressed in degrees Celsius or $\pm 0.5^\circ\text{C}$, whichever is greater, for boilers or process heaters of less than 44 MW (150 million Btu/hr) design heat input capacity.

(3) Monitor and record the periods of operation of the boiler or process heater if the design heat input capacity of the boiler or process heater is 44 MW (150 million Btu/hr) or greater. The records must be readily available for inspection.

(d) The owner or operator of an affected facility that seeks to demonstrate compliance with the TRE index value limit specified under § 60.702(c) shall install, calibrate, maintain, and operate according to manufacturer's specifications the following equipment, unless alternative monitoring procedures or requirements are approved for that facility by the Administrator.

(1) Where an absorber is the final recovery device in the recovery system:

(i) A scrubbing liquid temperature monitoring device having an accuracy of ± 1 percent of the temperature being monitored expressed in degrees Celsius or $\pm 0.5^\circ\text{C}$, whichever is greater, and a specific gravity monitoring device having an accuracy of ± 0.02 specific gravity unit, each equipped with a continuous recorder, or

(ii) An organic monitoring device used to indicate the concentration level of organic compounds exiting the recovery device based on a detection principle

such as infra-red, photoionization, or thermal conductivity, each equipped with a continuous recorder.

(2) Where a condenser is the final recovery device in the recovery system:

(i) A condenser exit (product side) temperature monitoring device equipped with a continuous recorder and having an accuracy of ± 1 percent of the temperature being monitored expressed in degrees Celsius or $\pm 0.5^\circ\text{C}$, whichever is greater, or

(ii) An organic monitoring device used to indicate the concentration level of organic compounds exiting the recovery device based on a detection principle such as infra-red, photoionization, or thermal conductivity, each equipped with a continuous recorder.

(3) Where a carbon adsorber is the final recovery device unit in the recovery system:

(i) An integrating steam flow monitoring device having an accuracy of ± 10 percent, and a carbon bed temperature monitoring device having an accuracy of ± 1 percent of the temperature being monitored expressed in degrees Celsius or $\pm 0.5^\circ\text{C}$, whichever is greater, both equipped with a continuous recorder, or

(ii) An organic monitoring device used to indicate the concentration level of organic compounds exiting the recovery device based on a detection principle such as infra-red, photoionization, or thermal conductivity, each equipped with a continuous recorder.

(e) An owner or operator of an affected facility seeking to demonstrate compliance with the standards specified under § 60.702 with control devices other than incinerator, boiler, process heater, or flare; or recovery devices other than an absorber, condenser, or carbon adsorber shall provide to the Administrator information describing the operation of the control device or recovery device and the process parameter(s) that would indicate proper operation and maintenance of the device. The Administrator may request further information and will specify appropriate monitoring procedures or requirements.

§ 60.704 Test methods and procedures.

(a) For the purpose of demonstrating compliance with § 60.702, all affected facilities shall be run at full operating conditions and flow rates during any performance test.

(b) The following methods in appendix A to this part, except as provided under § 60.8(b), shall be used as reference methods to determine compliance with the emission limit or

percent reduction efficiency specified under § 60.702(a).

(1) Method 1 or 1A, as appropriate, for selection of the sampling sites. The control device inlet sampling site for determination of vent stream molar composition or TOC (less methane and ethane) reduction efficiency shall be prior to the inlet of the control device and after the recovery system.

(2) Method 2, 2A, 2C, or 2D, as appropriate, for determination of the gas volumetric flow rates.

(3) The emission rate correction factor, integrated sampling and analysis procedure of Method 3 shall be used to determine the oxygen concentration (%O_{2d}) for the purposes of determining compliance with the 20 ppmv limit. The sampling site shall be the same as that of the TOC samples and the samples shall be taken during the same time that the TOC samples are taken. The TOC concentration corrected to 3 percent O₂ (C_c) shall be computed using the following equation:

$$C_c = C_{TOC} = \frac{17.9}{20.9 - \%O_{2d}}$$

Where:

C_c = Concentration of TOC corrected to 3 percent O₂, dry basis, ppm by volume.
C_{TOC} = Concentration of TOC (minus methane and ethane), dry basis, ppm by volume.
%O_{2d} = Concentration of O₂, dry basis, percent by volume.

(4) Method 18 to determine the concentration of TOC in the control device outlet and the concentration of TOC in the inlet when the reduction efficiency of the control device is to be determined.

(i) The sampling time for each run shall be 1 hour in which either an integrated sample or four grab samples shall be taken. If grab sampling is used then the samples shall be taken at 15-minute intervals.

(ii) The emission reduction (R) of TOC (minus methane and ethane) shall be determined using the following equation:

$$R = \frac{E_i - E_o}{E_i} \times 100$$

where:

R = Emission reduction, percent by weight.
E_i = Mass rate of TOC entering the control device, kg TOC/hr.
E_o = Mass rate of TOC discharged to the atmosphere, kg TOC/hr.

(iii) The mass rates of TOC (E_i, E_o) shall be computed using the following equations:

$$E_i = K_2 \left(\sum_{j=1}^n C_{ij} M_{ij} \right) Q_i$$

$$E_o = K_2 \left(\sum_{j=1}^n C_{oj} M_{oj} \right) Q_o$$

where:

C_{TOC} = Concentration of sample component "j" of the gas stream at the inlet and outlet of the control device, respectively, dry basis, ppm by volume.

M_{ij}, M_{oj} = Molecular weight of sample component "j" of the gas stream at the inlet and outlet of the control device, respectively, g/g-mole (lb/lb-mole).

Q_i, Q_o = Flow rate of gas stream at the inlet and outlet of the control device, respectively, dscm/min (dscf/min).

K₂ = 2.494 × 10⁻⁶ (1/ppm)(g-mole/scm)(kg/g)(min/hr), where standard temperature for (g-mole/scm) is 20°C.

(iv) The TOC concentration (C_{TOC}) is the sum of the individual components and shall be computed for each run using the following equation:

$$C_{TOC} = \sum_{j=1}^n C_j$$

where:

C_{TOC} = Concentration of TOC (minus methane and ethane), dry basis, ppm by volume.

C_j = Concentration of sample component "j", dry basis, ppm by volume.

n = Number of components in the sample.

(5) When a boiler or process heater with a design heat input capacity of 44 MW (150 million Btu/hour) or greater is used to seek to comply with § 60.702(a), the requirement for an initial performance test is waived, in accordance with § 60.8(b). However, the Administrator reserves the option to require testing at such other times as may be required, as provided for in section 114 of the Act.

(c) When a flare is used to seek to comply with § 60.702(b), the flare shall comply with the requirements of § 60.18.

(d) The following test methods in appendix A to this part, except as provided under § 60.8(b), shall be used as reference methods for determining the net heating value of the gas combusted to determine compliance under § 60.702(b) and for determining the process vent stream TRE index value to determine compliance under § 60.702(c).

(1)(i) Method 1 or 1A, as appropriate, for selection of the sampling site. The sampling site for the vent stream molar composition determination and flow rate prescribed in § 60.704(d)(2) and (d)(3) shall be, except for the situations outlined in paragraph (d)(1)(ii) of this section, prior to the inlet of any control device, prior to any post-reactor dilution of the stream with air, and prior to any post-reactor introduction of halogenated compounds into the process vent stream. No traverse site selection method is needed for vents smaller than 4 inches in diameter.

(ii) If any gas stream other than the reactor vent stream is normally conducted through the final recovery device:

(A) The sampling site for vent stream flow rate and molar composition shall be prior to the final recovery device and prior to the point at which any nonreactor stream or stream from a nonaffected reactor is introduced.

(B) The efficiency of the final recovery device is determined by measuring the TOC concentration using Method 18 at the inlet to the final recovery device after the introduction of all vent streams and at the outlet of the final recovery device.

(C) The efficiency of the final recovery device shall be applied to the TOC concentration measured prior to the final recovery device and prior to the introduction of any nonreactor stream or stream from a nonaffected reactor to determine the concentration of TOC in the reactor vent stream from the final recovery device. This concentration of TOC is then used to perform the calculations outlined in § 60.704(d) (4) and (5).

(2) The molar composition of the vent stream shall be determined as follows:

(i) Method 18 to measure the concentration of TOC including those containing halogens.

(ii) ASTM D1946-77 to measure the concentration of carbon monoxide and hydrogen.

(iii) Method 4 to measure the content of water vapor.

(3) The volumetric flow rate shall be determined using Method 2, 2A, 2C, or 2D, as appropriate.

(4) The net heating value of the vent stream shall be calculated using the following equation:

$$H_T = K_1 \left(\sum_{j=1}^n C_j H_j \right)$$

where:

H_T = Net heating value of the sample, MJ/scm, where the net enthalpy per mole of vent stream is based on combustion at 25 °C and 760 mm Hg, but the standard temperature for determining the volume corresponding to one mole is 20 °C, as in the definition of Q_v (vent stream flow rate).

$$K_1 = \text{Constant, } 1.740 \times 10^{-7} \left(\frac{1}{\text{ppm}} \right) \left(\frac{\text{g-mole}}{\text{scm}} \right) \left(\frac{\text{MJ}}{\text{kcal}} \right) \text{ where standard temperature for } \left(\frac{\text{g-mole}}{\text{scm}} \right) \text{ is } 20^\circ\text{C}.$$

C_j = Concentration on a wet basis of compound j in ppm, as measured for organics by Method 18 and measured for hydrogen and carbon monoxide by ASTM D1946-77 as indicated in § 60.704(d)(2).

H_j = Net heat of combustion of compound j , kcal/g-mole, based on combustion at 25 °C and 760 mm Hg. The heats of combustion of vent stream components would be required to be determined using ASTM D2382-76 if published values are not available or cannot be calculated.

(5) The emission rate of TOC in the vent stream shall be calculated using the following equation:

$$E_{\text{TOC}} = K_2 \left(\sum_{j=1}^n C_j M_j \right) Q_v$$

where:

E_{TOC} = Emission rate of TOC in the sample, kg/hr

K_2 = Constant, $2.494 \times 10^{-6} (1/\text{ppm})(\text{g-mole}/\text{scm})(\text{kg/g})(\text{min}/\text{hr})$, where standard temperature for (g-mole/scm) is 20 °C.

C_j = Concentration on a dry basis of compound j in ppm as measured by Method 18 as indicated in § 60.704(d)(2)

M_j = Molecular weight of sample j , g/g-mole

Q_v = Vent stream flow rate (scm/min) at a standard temperature of 20 °C

(6) The total vent stream concentration (by volume) of compounds containing halogens (ppmv, by compound) shall be summed from the individual concentrations of compounds

containing halogens which were measured by Method 18.

(e) For purposes of complying with § 60.702(c), the owner or operator of a facility affected by this subpart shall calculate the TRE index value of the vent stream using the equation for incineration in paragraph (e)(1) of this section for halogenated vent streams. The owner or operator of an affected facility with a nonhalogenated vent stream shall determine the TRE index value by calculating values using both the incinerator equation in paragraph (e)(1) of this section and the flare equation in paragraph (e)(2) of this section and selecting the lower of the two values.

(1) The equation for calculating the TRE index value of a vent stream controlled by an incinerator is as follows:

$$\text{TRE} = \frac{1}{E_{\text{TOC}}} [a + b (Q_v)^{0.88} + c (Q_v) + d (Q_v) (H_T) + e (Q_v)^{0.88} (H_T)^{0.88} + f (Y_v)^{0.5}]$$

(i) where for a vent stream flow rate (scm/min) at a standard temperature of 20 °C that is greater than or equal to 14.2 scm/min:

TRE = TRE index value.

Q_v = Vent stream flow rate (scm/min) at a standard temperature of 20 °C.

H_T = Vent stream net heating value (MJ/scm), where the net enthalpy per mole of vent stream is based on combustion at 25 °C and 760 mm Hg, but the standard temperature for determining the volume corresponding to one mole is 20 °C as in the definition of Q_v .

$Y_v = Q_v$ for all vent stream categories listed in Table 1 except for Category E vent streams where $Y_v = (Q_v) (H_T) / 3.6$.

E_{TOC} = Hourly emissions of TOC reported in kg/hr. $a, b, c, d, e,$ and f are coefficients.

The set of coefficients that apply to a vent stream can be obtained from Table 1.

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TABLE 1. REACTOR PROCESSES NSPS TRE COEFFICIENTS FOR VENT STREAMS CONTROLLED BY AN INCINERATOR

DESIGN CATEGORY A1. FOR HALOGENATED PROCESS VENT STREAMS, IF $0 \leq \text{NET HEATING VALUE (MJ/scm)} \leq 3.5$:

Q_s = Vent Stream Flow rate (scm/min)	a	b	c	d	e	f
$14.2 < Q_s \leq 18.8$	19.65559	0.27948	0.76683	-0.13173	0	0.01044
$18.8 < Q_s \leq 699$	20.48848	0.27948	0.30929	-0.13173	0	0.01044
$699 < Q_s \leq 1400$	40.83338	0.30372	0.30929	-0.13173	0	0.01477
$1400 < Q_s \leq 2100$	61.17828	0.31887	0.30929	-0.13173	0	0.01809
$2100 < Q_s \leq 2800$	81.52318	0.33007	0.30929	-0.13173	0	0.02088
$2800 < Q_s \leq 3500$	101.86808	0.33902	0.30929	-0.13173	0	0.02335

DESIGN CATEGORY A2. FOR HALOGENATED PROCESS VENT STREAMS, IF NET HEATING VALUE > 3.5 MJ/scm:

Q_s = Vent Stream Flow rate (scm/min)	a	b	c	d	e	f
$14.2 < Q_s \leq 18.8$	19.31203	0.27099	-0.20500	0	0	0.01044
$18.8 < Q_s \leq 699$	20.14491	0.27099	-0.25255	0	0	0.01044
$699 < Q_s \leq 1400$	40.14625	0.29449	-0.25255	0	0	0.01477
$1400 < Q_s \leq 2100$	60.14759	0.30917	-0.25255	0	0	0.01809
$2100 < Q_s \leq 2800$	80.14892	0.32003	-0.25255	0	0	0.02088
$2800 < Q_s \leq 3500$	100.15026	0.32872	-0.25255	0	0	0.02335

DESIGN CATEGORY B. FOR NONHALOGENATED PROCESS VENT STREAMS, IF $0 \leq \text{NET HEATING VALUE (MJ/scm)} \leq 0.48$:

Q_s = Vent Stream Flow rate (scm/min)	a	b	c	d	e	f
$14.2 < Q_s \leq 1340$	8.84812	0.10696	0.09188	-0.17252	0	0.01044
$1340 < Q_s \leq 2690$	17.55267	0.11623	0.09188	-0.17252	0	0.01477
$2690 < Q_s \leq 4040$	26.25721	0.12203	0.09188	-0.17252	0	0.01809

DESIGN CATEGORY C. FOR NONHALOGENATED PROCESS VENT STREAMS, IF $0.48 < \text{NET HEATING VALUE (MJ/scm)} \leq 1.9$:

Q_s = Vent Stream Flow rate (scm/min)	a	b	c	d	e	f
$14.2 < Q_s \leq 1340$	9.56783	0.06187	0.32303	-0.16316	0	0.01044
$1340 < Q_s \leq 2690$	18.99209	0.06723	0.32303	-0.16316	0	0.01477
$2690 < Q_s \leq 4040$	28.41635	0.07058	0.32303	-0.16316	0	0.01809

DESIGN CATEGORY D. FOR NONHALOGENATED PROCESS VENT STREAMS, IF $1.9 < \text{NET HEATING VALUE (MJ/scm)} \leq 3.6$:

Q_s = Vent Stream Flow rate (scm/min)	a	b	c	d	e	f
$14.2 < Q_s \leq 1180$	6.87612	0.07036	0.02669	0	0	0.01044
$1180 < Q_s \leq 2370$	13.60866	0.07646	0.02669	0	0	0.01477
$2370 < Q_s \leq 3550$	20.34120	0.08028	0.02669	0	0	0.01809

DESIGN CATEGORY E. FOR NONHALOGENATED PROCESS VENT STREAMS, IF NET HEATING VALUE > 3.6 MJ/scm:

Y_s = Dilution Flow rate (scm/min) = $(Q_s)(H_T)/3.6$	a	b	c	d	e	f
$14.2 < Y_s \leq 1180$	6.87612	0	0	-0.00730	0.02249	0.01044
$1180 < Y_s \leq 2370$	13.60866	0	0	-0.00730	0.02445	0.01477
$2370 < Y_s \leq 3550$	20.34120	0	0	-0.00730	0.02566	0.01809

(ii) For a vent stream flow rate (scm/min) at a standard temperature of 20 °C that is less than 14.2 scm/min:

TRE = TRE index value.

$Q_s = 14.2$ scm/min.

$H_T = (\text{FLOW})(\text{HVAL})/14.2$

where the following inputs are used:

FLOW = Vent steam flow rate (scm/min), at a standard temperature of 20 °C.

HVAL = Vent stream net heating value (MJ/scm), where the net enthalpy per mole of vent stream is based on combustion at 25 °C and 760 mm Hg, but the standard temperature for determining the volume corresponding to one mole is 20 °C as in definition of Q_s .

$Y_s = 14.2$ scm/min for all vent streams except for Category E vent streams, where $Y_s = (14.2)(H_T)/3.6$.

E_{TOC} = Hourly emissions of TOC reported in kg/hr.

a, b, c, d, e, and f are coefficients.

The set of coefficients that apply to a vent stream can be obtained from Table 1.

(2) The equation for calculating the TRE index value of a vent stream controlled by a flare is as follows:

$$\text{TRE} = \frac{1}{E_{\text{TOC}}} [a(Q_s) + b(Q_s)^{0.75} + c(Q_s)(H_T) + d(E_{\text{TOC}}) + e]$$

where:

TRE = TRE index value.

E_{TOC} = Hourly emission rate of TOC reported in kg/hr.

Q_s = Vent stream flow rate (scm/min) at a standard temperature of 20 °C.

H_T = Vent stream net heating value (MJ/scm), where the net enthalpy per mole of offgas is based on combustion at 25 °C and 760 mm Hg, but the standard temperature for determining the volume corresponding to one mole is 20 °C as in definition of Q_s .

a, b, c, d, e, and f are coefficients.

The set of coefficients that apply to a vent stream can be obtained from Table 2.

TABLE 2.—REACTOR PROCESSES NSPS TRE COEFFICIENTS FOR VENT STREAMS CONTROLLED BY A FLARE

	a	b	c	d	e
$H_T < 11.2 \text{ MJ/scm}$	2.25	0.288	-0.193	-0.0051	2.08
$H_T > 11.2 \text{ MJ/scm}$	0.309	0.0619	-0.0043	-0.0034	2.08

(f) Each owner or operator of an affected facility seeking to comply with § 60.700(c)(2) or § 60.702(c) shall recalculate the TRE index value for the affected facility whenever process changes are made. Examples of process changes include changes in production capacity, feedstock type, or catalyst type, or whenever there is replacement, removal, or addition of recovery equipment. The TRE index value shall be recalculated based on test data, or on best engineering estimates of the effects of the change on the recovery system.

(1) Where the recalculated TRE index value is less than or equal to 1.0, the owner or operator shall notify the Administrator within 1 week of the recalculation and shall conduct a performance test according to the methods and procedures required by § 60.704 in order to determine compliance with § 60.702(a). Performance tests must be conducted as soon as possible after the process change but no later than 180 days from the time of the process change.

(2) Where the initial TRE index value is greater than 8.0 and the recalculated TRE index value is less than or equal to 8.0 but greater than 1.0, the owner or operator shall conduct a performance test in accordance with § 60.8 and § 60.704 and shall comply with § 60.703, § 60.704, and § 60.705. Performance tests

must be conducted as soon as possible after the process change but no later than 180 days from the time of the process change.

(g) Any owner or operator subject to the provisions of this subpart seeking to demonstrate compliance with § 60.700(c)(4) shall use Method 2, 2A, 2C, or 2D of appendix A to part 60, as appropriate, for determination of volumetric flow rate.

§ 60.705 Reporting and recordkeeping requirements.

(a) Each owner or operator subject to § 60.702 shall notify the Administrator of the specific provisions of § 60.702 (§ 60.702 (a), (b), or (c)) with which the owner or operator has elected to comply. Notification shall be submitted with the notification of initial start-up required by § 60.7(a)(3). If an owner or operator elects at a later date to use an alternative provision of § 60.702 with which he or she will comply, then the Administrator shall be notified by the owner or operator 90 days before implementing a change and, upon implementing the change, a performance test shall be performed as specified by § 60.704 within 180 days.

(b) Each owner or operator subject to the provisions of this subpart shall keep an up-to-date, readily accessible record of the following data measured during

each performance test, and also include the following data in the report of the initial performance test required under § 60.8. Where a boiler or process heater with a design heat input capacity of 44 MW (150 million Btu/hour) or greater is used to comply with § 60.702(a), a report containing performance test data need not be submitted, but a report containing the information in § 60.705(b)(2)(i) is required. The same data specified in this section shall be submitted in the reports of all subsequently required performance tests where either the emission control efficiency of a control device, outlet concentration of TOC, or the TRE index value of a vent stream from a recovery system is determined.

(1) Where an owner or operator subject to the provisions of this subpart seeks to demonstrate compliance with § 60.702(a) through use of either a thermal or catalytic incinerator:

(i) The average firebox temperature of the incinerator (or the average temperature upstream and downstream of the catalyst bed for a catalytic incinerator), measured at least every 15 minutes and averaged over the same time period of the performance testing, and

(ii) The percent reduction of TOC determined as specified in § 60.704(b) achieved by the incinerator, or the

concentration of TOC (ppmv, by compound) determined as specified in § 60.704(b) at the outlet of the control device on a dry basis corrected to 3 percent oxygen.

(2) Where an owner or operator subject to the provisions of this subpart seeks to demonstrate compliance with § 60.702(a) through use of a boiler or process heater:

(i) A description of the location at which the vent stream is introduced into the boiler or process heater, and

(ii) The average combustion temperature of the boiler or process heater with a design heat input capacity of less than 44 MW (150 million Btu/hr) measured at least every 15 minutes and averaged over the same time period of the performance testing.

(3) Where an owner or operator subject to the provisions of this subpart seeks to demonstrate compliance with § 60.702(b) through use of a smokeless flare, flare design (i.e., steam-assisted, air-assisted or non-assisted), all visible emission readings, heat content determinations, flow rate measurements, and exit velocity determinations made during the performance test, continuous records of the flare pilot flame monitoring, and records of all periods of operations during which the pilot flame is absent.

(4) Where an owner or operator subject to the provisions of this subpart seeks to demonstrate compliance with § 60.702(c):

(i) Where an absorber is the final recovery device in the recovery system, the exit specific gravity (or alternative parameter which is a measure of the degree of absorbing liquid saturation, if approved by the Administrator), and average exit temperature of the absorbing liquid, measured at least every 15 minutes and averaged over the same time period of the performance testing (both measured while the vent stream is normally routed and constituted), or

(ii) Where a condenser is the final recovery device in the recovery system, the average exit (product side) temperature measured at least every 15 minutes and averaged over the same time period of the performance testing while the vent stream is routed and constituted normally, or

(iii) Where a carbon adsorber is the final recovery device in the recovery system, the total steam mass flow measured at least every 15 minutes and averaged over the same time period of the performance test (full carbon bed cycle), temperature of the carbon bed after regeneration (and within 15 minutes of completion of any cooling cycle(s)), and duration of the carbon bed

steaming cycle (all measured while the vent stream is routed and constituted normally), or

(iv) As an alternative to § 60.705 (b)(4)(i), (b)(4)(ii) or (b)(4)(iii), the concentration level or reading indicated by the organics monitoring device at the outlet of the absorber, condenser, or carbon adsorber, measured at least every 15 minutes and averaged over the same time period of the performance testing while the vent stream is normally routed and constituted.

(v) All measurements and calculations performed to determine the TRE index value of the vent stream.

(c) Each owner or operator subject to the provisions of this subpart shall keep up-to-date, readily accessible continuous records of the equipment operating parameters specified to be monitored under § 60.703 (a) and (c) as well as up-to-date, readily accessible records of periods of operation during which the parameter boundaries established during the most recent performance test are exceeded. The Administrator may at any time require a report of these data. Where a combustion device is used to comply with § 60.702(a), periods of operation during which the parameter boundaries established during the most recent performance tests are exceeded are defined as follows:

(1) For thermal incinerators, all 3-hour periods of operation during which the average combustion temperature was more than 28 °C (50 °F) below the average combustion temperature during the most recent performance test at which compliance with § 60.702(a) was determined.

(2) For catalytic incinerators, all 3-hour periods of operation during which the average temperature of the vent stream immediately before the catalyst bed is more than 28 °C (50 °F) below the average temperature of the vent stream during the most recent performance test at which compliance with § 60.702(a) was determined. The owner or operator also shall record all 3-hour periods of operation during which the average temperature difference across the catalyst bed is less than 80 percent of the average temperature difference of the device during the most recent performance test at which compliance with § 60.702(a) was determined.

(3) All 3-hour periods of operation during which the average combustion temperature was more than 28 °C (50 °F) below the average combustion temperature during the most recent performance test at which compliance with § 60.702(a) was determined for boilers or process heaters with a design

heat input capacity of less than 44 MW (150 million Btu/hr).

(4) For boilers or process heaters, whenever there is a change in the location at which the vent stream is introduced into the flame zone as required under § 60.702(a).

(d) Each owner or operator subject to the provisions of this subpart shall keep up to date, readily accessible continuous records of the indication of flow specified under § 60.703(a)(2), § 60.703(b)(2) and § 60.703(c)(1), as well as up-to-date, readily accessible records of all periods when the vent stream is diverted from the control device or has no flow rate.

(e) Each owner or operator subject to the provisions of this subpart who uses a boiler or process heater with a design heat input capacity of 44 MW or greater to comply with § 60.702(a) shall keep an up-to-date, readily accessible record of all periods of operation of the boiler or process heater. (Examples of such records could include records of steam use, fuel use, or monitoring data collected pursuant to other State or Federal regulatory requirements.)

(f) Each owner or operator subject to the provisions of this subpart shall keep up-to-date, readily accessible continuous records of the flare pilot flame monitoring specified under § 60.703(b), as well as up-to-date, readily accessible records of all periods of operations in which the pilot flame is absent.

(g) Each owner or operator subject to the provisions of this subpart shall keep up-to-date, readily accessible continuous records of the equipment operating parameters specified to be monitored under § 60.703(d), as well as up-to-date, readily accessible records of periods of operation during which the parameter boundaries established during the most recent performance test are exceeded. The Administrator may at any time require a report of these data. Where an owner or operator seeks to comply with § 60.702(c), periods of operation during which the parameter boundaries established during the most recent performance test are exceeded are defined as follows:

(1) Where an absorber is the final recovery device in a recovery system, and where an organic compound monitoring device is not used:

(i) All 3-hour periods of operation during which the average absorbing liquid temperature was more than 11 °C (20 °F) above the average absorbing liquid temperature during the most recent performance test, or

(ii) All 3-hour periods of operation during which the average absorbing

liquid specific gravity was more than 0.1 unit above, or more than 0.1 unit below, the average absorbing liquid specific gravity during the most recent performance test (unless monitoring of an alternative parameter, which is a measure of the degree of absorbing liquid saturation, is approved by the Administrator, in which case he will define appropriate parameter boundaries and periods of operation during which they are exceeded).

(2) Where a condenser is the final recovery device in a system, and where an organic compound monitoring device is not used, all 3-hour periods of operation during which the average exit (product side) condenser operating temperature was more than 6 °C (11 °F) above the average exit (product side) operating temperature during the most recent performance test.

(3) Where a carbon adsorber is the final recovery device in a system, and where an organic compound monitoring device is not used:

(i) All carbon bed regeneration cycles during which the total mass steam flow was more than 10 percent below the total mass steam flow during the most recent performance test, or

(ii) All carbon bed regeneration cycles during which the temperature of the carbon bed after regeneration [and after completion of any cooling cycle(s)] was more than 10 percent greater than the carbon bed temperature (in degrees Celsius) during the most recent performance test.

(4) Where an absorber, condenser, or carbon adsorber is the final recovery device in the recovery system and where an organic monitoring device is used, all 3-hour periods of operation during which the average organic compound concentration level or reading of organic compounds in the exhaust gases is more than 20 percent greater than the exhaust gas organic compound concentration level or reading measured by the monitoring device during the most recent performance test.

(h) Each owner or operator of an affected facility subject to the provisions of this subpart and seeking to demonstrate compliance with § 60.702(c) shall keep up-to-date, readily accessible records of:

(1) Any changes in production capacity, feedstock type, or catalyst type, or of any replacement, removal or addition of recovery equipment or reactors;

(2) Any recalculation of the TRE index value performed pursuant to § 60.704(f); and

(3) The results of any performance test performed pursuant to the methods and procedures required by § 60.704(d).

(i) Each owner or operator of an affected facility that seeks to comply with the requirements of this subpart by complying with the flow rate cutoff in § 60.700(c)(4) shall keep up-to-date, readily accessible records to indicate that the stream flow rate is less than 0.011 scm/min and of any change in equipment or process operation that increases the operating vent stream flow rate, including a measurement of the new vent stream flow rate.

(j) Each owner or operator of an affected facility that seeks to comply with the requirements of this subpart by complying with the design production capacity provision in § 60.700(c)(3) shall keep up-to-date, readily accessible records of any change in equipment or process operation that increases the design production capacity of the process unit in which the affected facility is located.

(k) Each owner and operator subject to the provisions of this subpart is exempt from the quarterly reporting requirements contained in § 60.7(c) of the General Provisions.

(l) Each owner or operator that seeks to comply with the requirements of this subpart by complying with the requirements of § 60.700(c)(2), (c)(3), or (c)(4) or § 60.702 shall submit to the Administrator semiannual reports of the following recorded information. The initial report shall be submitted within 6 months after the initial start-up date.

(1) Exceedances of monitored parameters recorded under § 60.705(c) and (g).

(2) All periods recorded under § 60.705(d) when the vent stream is diverted from the control device or has no flow rate.

(3) All periods recorded under § 60.705(e) when the boiler or process heater was not operating.

(4) All periods recorded under § 60.705(f) in which the pilot flame of the flare was absent.

(5) Any change in equipment or process operation that increases the operating vent stream flow rate above the low flow exemption level in § 60.700(c)(4), including a measurement of the new vent stream flow rate, as recorded under § 60.705(i). These must be reported as soon as possible after the change and no later than 180 days after the change. A performance test must be completed within the same time period to verify the recalculated flow value and to obtain the vent stream characteristics of heating value and E_{ROC} . The performance test is subject to the requirements of § 60.8 of the General

Provisions. Unless the facility qualifies for an exemption under the low capacity exemption status in § 60.700(c)(3), the facility must begin compliance with the requirements set forth in § 60.702.

(6) Any change in equipment or process operation, as recorded under § 60.705(j), that increases the design production capacity above the low capacity exemption level in § 60.700(c)(3) and the new capacity resulting from the change for the reactor process unit containing the affected facility. These must be reported as soon as possible after the change and no later than 180 days after the change. A performance test must be completed within the same time period to obtain the vent stream flow rate, heating value, and E_{ROC} . The performance test is subject to the requirements of § 60.8 of the General Provisions. Unless the facility qualifies for an exemption under the flow exemption in § 60.700(c)(4), the facility must begin compliance with the requirements set forth in § 60.702.

(7) Any recalculation of the TRE index value, as recorded under § 60.702(h).

(m) The requirements of § 60.705(l) remain in force until and unless EPA, in delegating enforcement authority to a State under section 111(c) of the Act, approves reporting requirements or an alternative means of compliance surveillance adopted by such State. In that event, affected sources within the State will be relieved of the obligation to comply with § 60.705(i), provided that they comply with the requirements established by the State.

(n) Each owner or operator that seeks to demonstrate compliance with § 60.700(c)(3) must submit to the Administrator an initial report detailing the design production capacity of the process unit.

(o) Each owner or operator that seeks to demonstrate compliance with § 60.700(c)(4) must submit to the Administrator an initial report including a flow rate measurement using the test methods specified in § 60.704.

(p) The Administrator will specify appropriate reporting and recordkeeping requirements where the owner or operator of an affected facility complies with the standards specified under § 60.702 other than as provided under § 60.703 (a), (b), (c), and (d).

§ 60.706 Reconstruction.

(a) For purposes of this subpart "fixed capital cost of the new components," as used in § 60.15, includes the fixed capital cost of all depreciable components which are or will be replaced pursuant to all continuous programs of component replacement

which are commenced within any 2-year period following June 29, 1990. For purposes of this paragraph, "commenced" means that an owner or operator has undertaken a continuous program of component replacement or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of component replacement.

§ 60.707 Chemicals affected by subpart RRR.

Chemical name	CAS No. ¹
Acetaldehyde.....	75-07-0
Acetic acid.....	64-19-7
Acetic anhydride.....	108-24-7
Acetone.....	67-64-1
Acetone cyanohydrin.....	75-86-5
Acetylene.....	74-86-2
Acrylic acid.....	79-10-7
Acrylonitrile.....	107-13-1
Adipic acid.....	124-04-9
Adiponitrile.....	111-69-3
Alcohols, C-11 or lower, mixtures.....	
Alcohols, C-12 or higher, mixtures.....	
Alcohols, C-12 or higher, unmixed.....	
Allyl chloride.....	107-05-1
Amylene.....	513-35-8
Amylenes, mixed.....	
Aniline.....	62-53-3
Benzene.....	71-43-2
Benzenesulfonic acid.....	98-11-3
Benzenesulfonic acid C ₁₀₋₁₈ -alkyl derivatives, sodium salts.....	68081-81-2
Benzyl chloride.....	100-44-7
Bisphenol A.....	80-05-7
Bromotone.....	76-08-4
1,3-Butadiene.....	106-99-0
Butadiene and butene fractions.....	
n-Butane.....	106-97-8
1,4-Butanediol.....	110-63-4
Butanes, mixed.....	
1-Butene.....	106-98-9
2-Butene.....	25167-67-3
Butenes, mixed.....	
n-Butyl acetate.....	123-86-4
Butyl acrylate.....	141-32-2
n-Butyl alcohol.....	71-36-3
sec-Butyl alcohol.....	78-92-2
tert-Butyl alcohol.....	75-85-0
Butylbenzyl phthalate.....	85-86-7
tert-Butyl hydroperoxide.....	75-91-2
2-Butyne-1,4-diol.....	110-65-6
Butyraldehyde.....	123-72-8
Butyric anhydride.....	106-31-0
Caprolactam.....	105-60-2
Carbon disulfide.....	75-15-0
Carbon tetrachloride.....	56-23-5
Chloroacetic acid.....	79-11-8
Chlorobenzene.....	108-90-7
Chlorodifluoromethane.....	75-45-6
Chloroform.....	67-66-3
p-Chloronitrobenzene.....	100-00-5
Citric acid.....	77-92-9
Cumene.....	98-82-8
Cumene hydroperoxide.....	80-15-9
Cyanuric chloride.....	108-77-0
Cyclohexane.....	110-82-0
Cyclohexane, oxidized.....	68512-15-2

Chemical name	CAS No. ¹
Cyclohexanol.....	108-93-0
Cyclohexanone.....	108-94-1
Cyclohexanone oxime.....	100-64-1
Cyclohexene.....	110-83-8
Cyclopropane.....	75-19-4
Diacetone alcohol.....	123-42-2
1,4-Dichlorobutene.....	110-57-6
3,4-Dichloro-1-butene.....	64037-54-3
Dichlorodifluoromethane.....	75-71-8
Dichlorodimethylsilane.....	75-78-5
Dichlorodifluoromethane.....	75-43-4
Diethanolamine.....	111-42-2
Diethylbenzene.....	25340-17-4
Diethylene glycol.....	111-46-6
Di-isodecyl phthalate.....	26761-40-0
Dimethyl terephthalate.....	120-61-6
2,4-(and 2,6)-dinitrotoluene.....	121-14-2
Dioctyl phthalate.....	117-81-7
Dodecene.....	25378-22-7
Dodecylbenzene, non-linear.....	
Dodecylbenzenesulfonic acid.....	27176-87-0
Dodecylbenzenesulfonic acid, sodium salt.....	25155-30-0
Epichlorohydrin.....	106-89-8
Ethanol.....	64-17-5
Ethanolamine.....	141-43-5
Ethyl acetate.....	141-78-6
Ethyl acrylate.....	140-88-5
Ethylbenzene.....	100-41-4
Ethyl chloride.....	75-00-3
Ethylene.....	74-85-1
Ethylene dibromide.....	106-93-4
Ethylene dichloride.....	107-06-2
Ethylene glycol.....	107-21-1
Ethylene glycol monobutyl ether.....	111-76-2
Ethylene glycol monomethyl ether acetate.....	111-15-9
Ethylene glycol monomethyl ether.....	109-86-4
Ethylene oxide.....	75-21-8
2-Ethylhexyl alcohol.....	104-76-7
(2-Ethylhexyl) amine.....	104-75-6
6-Ethyl-1,2,3,4-tetrahydro 9,10-antra-cenedione.....	15547-17-8
Formaldehyde.....	50-00-0
Glycerol.....	56-81-5
n-Heptane.....	142-82-5
Heptenes (mixed).....	
Hexamethylene diamine.....	124-09-4
Hexamethylene diamine adipate.....	3323-53-3
Hexamethylenetetramine.....	100-97-0
Hexane.....	110-54-3
Isobutane.....	75-28-5
Isobutanol.....	78-83-1
Isobutylene.....	115-11-7
Isobutyraldehyde.....	78-84-2
Isopentane.....	78-78-4
Isoprene.....	78-79-5
Isopropanol.....	67-63-0
Ketene.....	463-51-4
Linear alcohols, ethoxylated, mixed.....	
Linear alcohols, ethoxylated, and sulfated, sodium salt, mixed.....	
Linear alkylbenzene.....	123-01-3
Maleic anhydride.....	108-31-6
Mesityl oxide.....	141-79-7
Methanol.....	67-56-1
Methylamine.....	74-39-5
ar-Methylbenzenediamine.....	25378-45-8
Methyl chloride.....	74-87-3
Methylene chloride.....	75-09-2
Methyl ethyl ketone.....	78-93-3
Methyl isobutyl ketone.....	108-10-1
Methyl methacrylate.....	80-62-6

Chemical name	CAS No. ¹
1-Methyl-2-pyrrolidone.....	872-50-4
Methyl tert-butyl ether.....	
Naphthalene.....	91-20-3
Nitrobenzene.....	98-95-3
1-Nonene.....	27215-95-8
Nonyl alcohol.....	143-08-08
Nonylphenol.....	25154-52-3
Nonylphenol, ethoxylated.....	9018-45-9
Octene.....	25377-83-7
Oil-soluble petroleum sulfonate, calcium salt.....	
Pentaerythritol.....	115-77-5
3-Pentenitrile.....	4635-87-4
Pentenenes, mixed.....	109-67-1
Perchloroethylene.....	127-18-4
Phenol.....	108-95-2
1-Phenylethyl hydroperoxide.....	3071-32-7
Phenylpropane.....	103-65-1
Phosgene.....	75-44-5
Phthalic anhydride.....	85-44-9
Propane.....	74-98-6
Propionaldehyde.....	123-38-6
Propyl alcohol.....	71-23-8
Propylene.....	115-07-1
Propylene glycol.....	57-55-6
Propylene oxide.....	75-56-9
Sorbitol.....	50-70-4
Styrene.....	100-42-5
Terephthalic acid.....	100-21-0
Tetraethyl lead.....	78-00-2
Tetrahydrofuran.....	109-99-9
Tetra (methyl-ethyl) lead.....	
Tetramethyl lead.....	75-74-1
Toluene.....	108-88-3
Toluene-2,4-diamine.....	95-80-7
Toluene-2,4-(and, 2,6)-diisocyanate (80/20 mixture).....	26471-62-5
1,1,1-Trichloroethane.....	71-55-6
1,1,2-Trichloroethane.....	79-00-5
Trichloroethylene.....	79-01-6
Trichlorofluoromethane.....	75-69-4
1,1,2,2-Trichloro-1,2,2-trifluoroethane.....	76-13-1
Triethanolamine.....	102-71-6
Triethylene glycol.....	112-27-6
Vinyl acetate.....	108-05-4
Vinyl chloride.....	75-01-4
Vinylidene chloride.....	75-35-4
m-Xylene.....	108-38-3
o-Xylene.....	95-47-6
p-Xylene.....	106-42-3
Xylenes (mixed).....	1330-20-7

¹CAS numbers refer to the Chemical Abstracts Registry numbers assigned to specific chemicals, isomers, or mixtures of chemicals. Some isomers or mixtures that are covered by the standards do not have CAS numbers assigned to them. The standards apply to all of the chemicals listed, whether CAS numbers have been assigned or not.

§ 60.708 Delegation of authority.

(a) In delegating implementation and enforcement authority to a State under section 111(c) of the Act, the authorities contained in paragraph (b) of this section shall be retained by the Administrator and not transferred to a State.

(b) Authorities which will not be delegated to States: § 60.703(e).

[FR Doc. 90-14268 Filed 6-28-90; 8:45 am]

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Federal Register

Friday
June 29, 1990

Part IV

Department of Housing and Urban Development

Office of the Assistant Secretary

Section 8 Loan Management Set-Aside Assistance; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

[Docket No. N-90-3080; FR-2798-N-01]

Section 8 Loan Management Set-Aside Assistance

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice of fund availability.

SUMMARY: This Notice announces the availability of approximately \$114 million in fiscal year 1990 section 8 funds for Loan Management Set-Aside (LMSA) assistance. The primary purpose of the LMSA program is to reduce claims on the Department's insurance fund by aiding those FHA insured or Secretary-held projects with immediate or potentially serious financial difficulties.

APPLICATION DUE DATE: July 30, 1990.

EFFECTIVE DATE: June 29, 1990.

FOR FURTHER INFORMATION CONTACT: Stephen Hans, Acting Director, Operations Division, Office of Multifamily Housing Management, Department of Housing and Urban Development, room 6164, 451 Seventh Street, SW., Washington, DC 20410. Telephone (202) 708-0216. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The Loan Management Set-Aside (LMSA) program provides special allocations of Housing Assistance Payments under section 8 of the United States Housing Act of 1937. The primary purpose of the program is to reduce claims on the Department's insurance fund by aiding those FHA-insured or Secretary-held projects with immediately or potentially serious financial difficulties. First priority is given to projects with serious current financial problems, which are likely to result in a claim on the insurance fund in the near future.

Projects eligible for LMSA assistance include (1) existing subsidized or unsubsidized multifamily residential projects subject to a mortgage insured under any section of the National Housing Act; (2) any such project subject to a mortgage that has been assigned to the Secretary; (3) any such project acquired by the Secretary and thereafter sold under a Secretary-held purchase money mortgage; (4) a project for the elderly financed under section 202 of the Housing Act of 1959 (except projects receiving assistance under 24 CFR part 885).

Available Funds

This Notice of Funding Availability (NOFA) makes available approximately \$114 million of the funds available for Fiscal Year 1990 for additional assistance under the Section 8 Loan Management Set-Aside (LMSA) program for purposes of avoiding claims on the Department's insurance fund. It announces that HUD is currently accepting applications for additional assistance under the LMSA program from owners of FHA-insured or Secretary-held multifamily projects with immediately or potentially serious financial difficulties.

Application Procedures

LMSA program requirements are found under 24 CFR part 886; application requirements for eligible projects are set forth in § 886.105 of that part.

Applications pursuant to this NOFA must be submitted to the respective HUD office having jurisdiction over the project for which assistance is requested. Applicants must respond within 30 days from the date of publication of this Notice with a request for section 8 assistance under the LMSA program which includes all of the items listed under § 886.105, in the order listed. A separate submission must be made for each project.

In addition to materials submitted as part of the LMSA application, HUD will use the Form HUD-92547A, Budget Worksheet-Income and Expense Projections, as submitted by the project owner in support of the most recent rent increase request in its review of the application for additional LMSA subsidy. There is no requirement for applicants to submit Form HUD-92547A with the LMSA application package. However, applicants may, at their option, update and provide a completed Form HUD-92547A with the LMSA application.

Applications received later than 30 days after the publication of this Notice will be considered for additional assistance in Fiscal Year 1990 only if the Secretary determines that additional assistance is needed immediately in response to emergency circumstances and only to the extent that sufficient budget authority remains to satisfy the additional LMSA subsidy requirement.

The owner of any project eligible for the LMSA program may apply for assistance. However, because HUD must give first priority to projects for which a claim on the insurance fund is likely to occur in the near future, applicants should be aware that priority in the allocation of available funds will

be given to projects with HUD mortgage insurance.

An owners who applied for LMSA assistance in a prior year and did not receive the desired number of units may update the contents and resubmit the application should he/she want the project reconsidered in Fiscal Year 1990.

Selection Criteria

Each application for assistance under the LMSA program will be reviewed by the HUD office having jurisdiction over the project in question. The HUD office must notify the relevant unit of general local government and approve the application pursuant to § 886.107 of the LMSA regulations, certifying that each application has been approved under outstanding LMSA program requirements.

General LMSA Funding

Fiscal Year 1990 general funding awards will be selected from projects identified by HUD Area and Regional Offices as projects which are both eligible for and in need of additional section 8 LMSA assistance and which adhere to the following guidelines.

HUD projects with serious current financial problems which are likely to result in a mortgage insurance claim in the near future may be recommended for additional LMSA units provided that financial and market analyses indicate that the project can be restored to financially sound operations with the additional LMSA assistance.

Both projects with and projects without mortgage subsidy are eligible for new units under general LMSA funding. A property is considered as having mortgage subsidy if it is the recipient of assistance under either section 221(d)(3) BMIR or 236 of the National Housing Act. Properties with unsubsidized HUD mortgages will be treated as unsubsidized, whether or not more than 50 percent of total units already have tenant-based subsidy. The following are limits on the number of additional units which may be requested for unsubsidized projects:

1. For unsubsidized projects with less than 20 percent project-based section 8 assistance currently, HUD Offices may request additional LMSA units up to the minimum number of units needed to cure the project's vacancy and cash flow problems OR the number by which 20 percent of total units exceeds the current number of project-based Section 8 units, whichever is less.

2. For unsubsidized projects with 20 percent or more project-based section 8 currently, there should generally be no additional units requested. However,

when thorough review of project operations indicates that a small increment in the subsidy level will maintain project viability for the foreseeable future, LMSA new units may be requested up to the minimum number of units needed to cure the project's vacancy and cash flow problems OR the number by which 40 percent of total units exceeds the current number of project-based section 8 units, whichever is less. In each case where LMSA units above the 20 percent level are recommended, the Field Office's written justification must document assurance that project management has an aggressive and workable plan in place for leasing the market rate units in the project.

HUD Regional and Area Offices will report to HUD Headquarters, via their fiscal 1990 annual needs survey the projects which, on the basis of the HUD field office review, have acceptable LMSA applications and which need additional LMSA subsidy to meet the project's HUD-92547A expense projections. HUD field staff also will report project data required for determining the items listed below which are to be used by Headquarters in establishing a funding score for each project. This funding score will be used to determine general funding awards. A maximum funding score of 100 points per project (80 points for HUD-held and section 202 projects) may be accumulated on the basis of the following project characteristics and maximum point potentials:

- (a) Vacancy Rate—20 points;
- (b) Mortgage balance per dollar of additional subsidy—20 points for HUD-insured projects only;
- (c) Owner advances or contributions since October 1, 1987—25 points;
- (d) Percent of tenants paying in excess of 40 percent of their income for rent—5 points;
- (e) Income/expense ratio—15 points; and
- (f) Mortgage payment coverage ratio (current assets less current liabilities divided by total monthly mortgage payment)—15 points.

HUD-insured project selections will be made separately from HUD-held and section 202 funding selections, if any. Projects will be scored, ranked, and selected, to the extent funds are available, in descending order of funding score—all HUD-insured projects first, and then HUD-held or section 202 projects. Assuming that processing checklists are submitted in good order by HUD Field Offices and proposed new units are within general funding limits, LMSA unit allocations will be the

number of units requested by the Field Office.

If a field office submits a non-emergency recommendation that an unsubsidized project receive an amount of additional LMSA units exceeding the limits set forth above, the Headquarters Office, in calculating the number of points awarded for item (b) above—"Mortgage balance per dollar of additional subsidy," will base its scoring on the maximum allowable number of units. Funding for the reduced number of units will not be assigned, however, until a revised HUD field offices Checklist certification is received in Headquarters reflecting the reduction in new units.

If approved, notification of a general funding award will be made through the HUD regional and area offices. Disapproved applicants will also be notified with a statement of the grounds for disapproval.

Emergency LMSA Funding

Up to 5 percent of available funds may be made available for funding projects recommended by HUD offices for emergency LMSA assistance. An "emergency" request must have concurrence from the Director of Housing in the appropriate Regional Office and must be characterized by one of the following:

- (1) The project meets criteria for general funding, but was submitted by the HUD Field Office to HUD Headquarters after the FY 1990 annual needs survey deadline (the date HUD area or Regional Offices are required to report to Headquarters LMSA general funding applications and survey data on needs).
- (2) The project was recommended on the general funding needs survey, but was not selected because of an insufficient score; or
- (3) The project is encumbered by an unsubsidized HUD mortgage and requires more additional units than permitted under general guidelines to alleviate emergency conditions which will likely result in a mortgage assignment in the near future or which involve matters affecting the health and safety of tenants.

Emergency Approval Requirements

All application and review procedures pertaining to general LMSA requests must also be carried out for emergency LMSA recommendations. In addition, HUD Regional or Area Offices must demonstrate that placement of the additional LMSA units will likely head-off a mortgage default or assignment in the near future.

The Regional Office must concur in writing with the Field Office's recommendation and the request to Headquarters must briefly explain why funds are needed on an emergency basis. Headquarters will not consider any emergency funding request which does not have written Regional Office concurrence.

HUD Regional Offices may submit emergency funding requests to Headquarters at any time, including on the survey report, as long as the emergency requests are clearly designated as such and emergency submission requirements are met for the applicable projects. After the needs survey deadline for general LMSA recommendations, only emergency requests will be accepted in HUD Headquarters for processing in Fiscal Year 1990.

If approved, notification of an emergency funding award will be made through the HUD Regional and Area Offices.

Other Matters

Executive Order 12612, Federalism. The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies contained in this Notice do not have federalism implications and, thus, are not subject to review under the Order. The LMSA program is designed to maintain the viability of existing HUD insured or assisted projects. It in no way changes existing relationships between HUD, State or local governments or the private sector.

Executive Order 12606, the Family. The General Counsel, as the Designated Official under Executive Order 12606, the Family, has determined that this Notice does not have a potential significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the Order. The function of this Notice is limited to inviting applications for HUD assistance to help maintain the viability of existing HUD-related projects. The impact of any assistance granted on families will be positive. It will increase both housing affordability and housing opportunities for affected families.

Environment. The subject matter of this Notice is categorically excluded from otherwise applicable National Environmental Policy Act Requirements under 24 CFR 50.20(c).

Certification Regarding Lobbying. On February 26, 1990, at 55 FR 6736, the Department joined in the issuance of a government-wide interim rule advising recipients and subrecipients of Federal contracts, grants, cooperative

agreements, and loans of a new prohibition regarding the use of appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant, or loan. In general, this rule prohibits the awarding of contracts, grants, cooperative agreements, or loans unless the recipient has made an acceptable certification

regarding lobbying. In addition, the recipient must file with the application a certification and a disclosure if it has made or has agreed to make any payment with nonappropriated funds that would be prohibited, if paid with appropriated funds. As indicated in this certification and disclosure, the law provides substantial monetary penalties

for failure to file the required certification or disclosure.

Dated: June 21, 1990.

James E. Schoenberger,

*Associate General Deputy Assistant
Secretary for Housing—Federal Housing
Commissioner.*

[FR Doc. 90-15153 Filed 6-28-90; 8:45 am]

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Registered Federal

Friday
June 29, 1990

Part V

Environmental Protection Agency

40 CFR Parts 261, 264, 265, 268, 271 and
302

Hazardous Waste Management System;
Identification and Listing of Hazardous
Waste; Toxicity Characteristic Revisions;
Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 261, 264, 265, 268, 271 and 302

[SWH-FRL-3792-2; EPA/OSW-FR-90-014]

RIN 2050-AA78

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Toxicity Characteristic Revisions

AGENCY: Environmental Protection Agency.

ACTION: Final rule; corrections.

SUMMARY: On March 29, 1990 (55 FR 11798), the Environmental Protection Agency (EPA) promulgated a rule to revise the existing toxicity characteristics, which are used to identify those wastes which are hazardous and thus subject to regulation under subtitle C of the Resource Conservation and Recovery Act (RCRA) due to their potential to leach significant concentrations of specific toxic constituents. Since promulgation, the Agency has found the need to make corrections to the rule in order to ensure consistency of the toxicity characteristic leaching procedure (TCLP), Method 1311, with other methods contained in Test Methods for Evaluating Solid Waste (Physical/Chemical Methods), SW-846 and to clarify the section on quality assurance. This notice also corrects several errors in the March 29, 1990 notice.

DATES: Effective date: September 25, 1990. The effective date and compliance dates are not changed by this document.

FOR FURTHER INFORMATION CONTACT: For general information about this notice, contact the RCRA/Superfund Hotline at (800) 424-9346 (toll free) or (202) 382-3000 in the Washington, DC metropolitan area. For information on specific aspects of this notice, contact Steve Cochran, Office of Solid Waste (OS-332), U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460, (202) 475-8551.

I. SUPPLEMENTARY INFORMATION:

A. Background

On March 29, 1990 (55 FR 11798), EPA promulgated a rule to revise the existing toxicity characteristics, which are used to identify those wastes which are hazardous and thus subject to regulation under subtitle C of RCRA. The rule broadened and refined the scope of the hazardous waste regulatory program and fulfilled specific statutory mandates under the Hazardous and Solid Waste Amendments of 1984.

Today's notice makes corrections to appendix II of the regulatory language of the March 29, 1990 final rule, Method 1311, the TCLP. The method has been reorganized to correspond to the current version of Test Methods for Evaluating Solid Waste (Chemical/Physical Methods), SW-846. In addition, the quality assurance section has been renumbered and has been clarified to eliminate confusion. Today's notice also corrects several typographical errors and other omissions that appeared in the final rule revising the toxicity characteristics.

The preamble to the March 29, 1990 final rule stated that any person that would like to use the TCLP before the effective date of the rule (September 25, 1990) may do so in order to determine whether the eight heavy metals and six pesticides that are currently regulated under the Extraction Procedure (EP) Toxicity Characteristic leach at levels of regulatory concern. This language was included because the TCLP is required for both waste determination (on September 25, 1990, the TC effective date) and the land disposal restrictions program. The Agency today is clarifying that, while it is appropriate to use just one leach test to fulfill both requirements, persons that would like to continue using the EP leach test until the effective date of the TC rule may do so. It should be noted, however, that the EP test may still be required as a matter of state law, and this regulation does not affect such state law requirements.

B. Method 1311 and Quality Assurance

Today's notice makes technical corrections to mistakes made in Method 1311, and to errors made during typesetting, and provides clarifications to specific procedures of the method. The method also is being reorganized by placing the leaching procedure in one section and the quality assurance in a separate section to conform with the format used in SW-846.

A correction is being made in the calculation for the weight of waste to charge the Zero-Headspace Extractor (ZHE). In the final rule published March 29, 1990, the method incorrectly stated that the optimum sample size to charge into the ZHE should be determined for wastes containing >0.5% solids. This calculation results in a charge sample greater than the capacity of the ZHE. The Agency today is correcting the procedure to require a determination on wastes containing >5% solids. The sample holding times and errors made during typesetting are also being corrected by today's notice.

The Agency received inquiries indicating that confusion exists

concerning correction factors and how they should be applied. Therefore, the Agency is making a technical correction in § 8.2.5 of Method 1311, published in today's notice, by adding a formula for correcting measured values for analytical bias. Also, inquiries indicate that EPA's discussion of the appropriate GC and GC/MS methods to be used was improper. The preamble language is corrected by today's notice to indicate the appropriate GC and GC/MS methods to be used.

Method 1311 is also being reorganized by today's notice by placing the leaching procedure itself in one section, 7.0. (The steps of the leaching procedure were previously presented in sections 7, 8, and 9 in the March 29, 1990 final rule.) In addition, this notice makes minor corrections to the quality assurance section and it is renumbered 8.0. This reorganization provides consistency with SW-846.

Appendix II, Method 1311 of the March 29, 1990 final rule is replaced in its entirety by Method 1311 of this notice in order to incorporate the corrections, reorganizations, and clarifications which are being made by today's notice.

The March 29, 1990 final rule provided an exclusion under 40 CFR 261.4 for petroleum-contaminated media and debris that fail the Toxicity Characteristic. This exclusion applies only to petroleum-contaminated media and debris which exhibit the TC for any one or more of the newly identified organic constituents, and which are subject to corrective action under part 280. The regulatory language of this exclusion in the final rule is revised by today's notice to correctly reflect this application.

C. Corrections

1. On page 11798, column one, under "DATES," in the second line of the compliance dates paragraph, change "generators: September 25, 1990. Small" to "generators and treatment, storage, and disposal facilities (TSDFs): September 25, 1990. Small".

2. On page 11804, Table II.2—Toxicity Characteristics Constituents and Regulatory Levels, change the column heading "Constituent (mg/L)" to "Constituent".

3. On page 11804, Table II.2—Toxicity Characteristic Constituents and Regulatory Levels, line twenty, change "Heptachlor (and its hydroxide)" to "Heptachlor (and its epoxide)".

4. On page 11815, column three, Table C-1—Chronic Toxicity Reference Levels, lines nineteen and twenty, change "Heptachlor (and its hydroxide)" to "Heptachlor (and its epoxide)".

5. On page 11825, column one, fourth bullet, first line, change "The data extracted from RFSSs" to "The data extracted from RFAs".

6. On page 11829, column one, the first full paragraph (lines twenty-four) through thirty-six is replaced by the following: "The Agency agrees that the GC method (Method 8040) or the GC/MS method (Method 8270) for phenols and the GC/Electron Capture Detection (GC/ECD) for phenoxyacid herbicides (Method 8150) are more advantageous for the analysis of these analytes because the equipment is more readily available than the HPLC, despite the associated difficulties. HPLC methods for phenols and phenoxyacid herbicides are not included in the third edition of SW-846 because of a lack of validation data. The Agency will allow only the use of the previously mentioned GC and GC/MS methods (Methods 8040 or 8270) or their equivalents for phenols and Method 8150 for phenoxyacid herbicides until such time that the Agency proposes an HPLC method."

7. On page 11831, column two, paragraph b, seventh line, change "rule of 40 CFR 262.3(a)(2)(iv) or the" to "rule of 40 CFR 261.3(a)(2)(iv) or the".

8. On page 11835, column one, first and second line, change "July 25, 1985" to "July 15, 1985".

9. On page 11837, column one, third complete paragraph, thirteenth line, change "for TSDFs on February 5, 1987 (53 FR)" to "for TSDFs on February 5, 1987 (52 FR)".

10. On page 11840, column three, first bullet of second complete paragraph, first line, change "Solid waste that is a hazardous waste" to "Used oil that is a hazardous waste".

11. On page 11844, Table IV-1.—TC Constituent and Regulatory Levels Proposed June 13, 1986—Continued, fourth line, change the CASNO for D034 from "76-44-2" to "76-44-8".

12. On page 11844, Table IV-1.—TC Constituent and Regulatory Levels Proposed June 13, 1986—Continued, line twenty-one, change to read as follows: D045 . . . 1,1,1,2-Tetrachloroethane . . . 630-20-6 . . . 10.0.

13. On page 11844, column two, Table IV-2.—Organic Constituents, fourth line, change the CASNO for D021 from "106-90-7" to "108-90-7".

14. On page 11844, column three, Table IV-2.—Organic Constituents—Continued, first line, change "D031 . . . Heptachlor (and its hydroxide) . . . 76-44-2" to "D031 . . . Heptachlor (and its epoxide) . . . 76-44-8".

15. On page 11846, Table IV-3.—Toxicity Characteristic Constituents and Regulatory Levels—Continued, tenth line, change "Heptachlor (and its

hydroxide)" to "Heptachlor (and its epoxide)".

16. Also on page 11846, column two, third line, change "270 of chapter 40." to "270 of title 40."

PART 261—[AMENDED]

§ 261.4 [Corrected]

17. On page 11862, column two, in § 261.4 paragraph (b)(10), is corrected to read as follows:

10. Petroleum-contaminated media and debris that fail the test for the Toxicity Characteristic of § 261.24 (Hazardous Waste Codes D018 through D043 only) and are subject to the corrective action regulations under part 280 of this chapter.

§ 261.24 [Corrected]

18. Also on page 11862, column three, in § 261.24 Table 1.—Maximum Concentration of Contaminants for the Toxicity Characteristic, lines twenty-eight and twenty-nine, change "Heptachlor (and its hydroxide)" to "Heptachlor (and its epoxide)".

PART 271—[AMENDED]

§ 271.1 [Corrected]

19. On page 11878, in § 271.1(j) Table 1—Regulations Implementing the Hazardous and Solid Waste Amendments of 1984, the Federal Register reference should be "55 FR 11798-11877".

PART 302—[AMENDED]

§ 302.4 [Corrected]

20. On page 11877, in § 302.4, Table 302.4, List of Hazardous Substances and Reportable Quantities, in the first column, make the following corrections:

A. In the ninth line, change "Heptachlor (and hydroxide) (D031)" to "Heptachlor (and epoxide) (D031)."

B. In line twenty-five, change "Trichloroethylene (D040)" to "Trichloroethylene (D040)".

C. In line twenty-six, change "2,4,5-Trichloroethylene (D041)" to "2,4,5-Trichlorophenol (D041)".

Dated: June 22, 1990.

Mary A. Gade,

Acting Assistant Administrator.

In addition to the corrections made above, part 261 is amended by revising appendix II to read as follows:

Appendix II—Method 1311 Toxicity Characteristic Leaching Procedure (TCLP)

1.0 Scope and Application

1.1 The TCLP is designed to determine the mobility of both organic and inorganic

analytes present in liquid, solid, and multiphasic wastes.

1.2 If a total analysis of the waste demonstrates that individual analytes are not present in the waste, or that they are present but at such low concentrations that the appropriate regulatory levels could not possibly be exceeded, the TCLP need not be run.

1.3 If an analysis of any one of the liquid fractions of the TCLP extract indicates that a regulated compound is present at such high concentrations that, even after accounting for dilution from the other fractions of the extract, the concentration would be equal to or above the regulatory level for that compound, then the waste is hazardous and it is not necessary to analyze the remaining fractions of the extract.

1.4 If an analysis of extract obtained using a bottle extractor shows that the concentration of any regulated volatile analyte equals or exceeds the regulatory level for that compound, then the waste is hazardous and extraction using the ZHE is not necessary. However, extract from a bottle extractor cannot be used to demonstrate that the concentration of volatile compounds is below the regulatory level.

2.0 Summary of Method

2.1 For liquid wastes (i.e., those containing less than 0.5% dry solid material), the waste, after filtration through a 0.6 to 0.8 μ m glass fiber filter, is defined as the TCLP extract.

2.2 For wastes containing greater than or equal to 0.5% solids, the liquid, if any, is separated from the solid phase and stored for later analysis; the particle size of the solid phase is reduced, if necessary. The solid phase is extracted with an amount of extraction fluid equal to 20 times the weight of the solid phase. The extraction fluid employed is a function of the alkalinity of the solid phase of the waste. A special extractor vessel is used when testing for volatile analytes (see Table 1 for a list of volatile compounds). Following extraction, the liquid extract is separated from the solid phase by filtration through a 0.6 to 0.8 μ m glass fiber filter.

2.3 If compatible (i.e., multiple phases will not form on combination), the initial liquid phase of the waste is added to the liquid extract, and these are analyzed together. If incompatible, the liquids are analyzed separately and the results are mathematically combined to yield a volume-weighted average concentration.

3.0 Interferences

3.1 Potential interferences that may be encountered during analysis are discussed in the individual analytical methods.

4.0 Apparatus and Materials

4.1 Agitation apparatus: The agitation apparatus must be capable of rotating the extraction vessel in an end-over-end fashion (see Figure 1) at 30 ± 2 rpm. Suitable devices known to EPA are identified in Table 2.

4.2 Extraction Vessels.

4.2.1 Zero-Head-space Extraction Vessel (ZHE). This device is for use only when the waste is being tested for the mobility of

volatile analytes (i.e., those listed in Table 1). The ZHE (depicted in Figure 2) allows for liquid/solid separation within the device, and effectively precludes headspace. This type of vessel allows for initial liquid/solid separation, extraction, and final extract filtration without opening the vessel (see section 4.3.1). The vessels shall have an internal volume of 500-600 mL, and be equipped to accommodate a 90-110 mm filter. The devices contain VITON® O-rings which should be replaced frequently. Suitable ZHE devices known to EPA are identified in Table 3.

For the ZHE to be acceptable for use, the piston within the ZHE should be able to be moved with approximately 15 pounds per square inch (psi) or less. If it takes more pressure to move the piston, the O-rings in the device should be replaced. If this does not solve the problem, the ZHE is unacceptable for TCLP analyses and the manufacturer should be contacted.

The ZHE should be checked for leaks after every extraction. If the device contains a built-in pressure gauge, pressurize the device to 50 psi, allow it to stand unattended for 1 hour, and recheck the pressure. If the device does not have a built-in pressure gauge, pressurize the device to 50 psi, submerge it in water, and check for the presence of air bubbles escaping from any of the fittings. If pressure is lost, check all fittings and inspect and replace O-rings, if necessary. Retest the device. If leakage problems cannot be solved, the manufacturer should be contacted.

Some ZHEs use gas pressure to actuate the ZHE piston, while others use mechanical pressure (see Table 3). Whereas the volatiles procedures (see section 7.3) refers to pounds per square inch (psi), for the mechanically actuated piston, the pressure applied is measured in torque-inch-pounds. Refer to the manufacturer's instructions as to the proper conversion.

4.2.2 Bottle Extraction Vessel. When the waste is being evaluated using the nonvolatile extraction, a jar with sufficient capacity to hold the sample and the extraction fluid is needed. Headspace is allowed in this vessel.

The extraction bottles may be constructed from various materials, depending on the analytes to be analyzed and the nature of the waste (see section 4.3.3). It is recommended that borosilicate glass bottles be used instead of other types of glass, especially when inorganics are of concern. Plastic bottles, other than polytetrafluoroethylene, shall not be used if organics are to be investigated. Bottles are available from a number of laboratory suppliers. When this type of extraction vessel is used, the filtration device discussed in section 4.3.2 is used for initial liquid/solid separation and final extract filtration.

4.3 Filtration Devices: It is recommended that all filtrations be performed in a hood.

4.3.1 Zero-Headspace Extractor Vessel (ZHE): When the waste is evaluated for volatiles, the zero-headspace extraction vessel described in section 4.2.1 is used for filtration. The device shall be capable of supporting and keeping in place the glass

fiber filter and be able to withstand the pressure needed to accomplish separation (50 psi).

Note: When it is suspected that the glass fiber filter has been ruptured, an in-line glass fiber filter may be used to filter the material within the ZHE.

4.3.2 Filter Holder: When the waste is evaluated for other than volatile analytes, any filter holder capable of supporting a glass fiber filter and able to withstand the pressure needed to accomplish separation may be used. Suitable filter holders range from simple vacuum units to relatively complex systems capable of exerting pressures of up to 50 psi or more. The type of filter holder used depends on the properties of the material to be filtered (see section 4.3.3). These devices shall have a minimum internal volume of 300 mL and be equipped to accommodate a minimum filter size of 47 mm (filter holders having an internal capacity of 1.5 L or greater, and equipped to accommodate a 142 mm diameter filter, are recommended). Vacuum filtration can only be used for wastes with low solids content (<10%) and for highly granular, liquid-containing wastes. All other types of wastes should be filtered using positive pressure filtration. Suitable filter holders known to EPA are shown in Table 4.

4.3.3 Materials of Construction: Extraction vessels and filtration devices shall be made of inert materials which will not leach or absorb waste components. Glass, polytetrafluoroethylene (PTFE), or type 316 stainless steel equipment may be used when evaluating the mobility of both organic and inorganic components. Devices made of high density polyethylene (HDPE), polypropylene (PP), or polyvinyl chloride (PVC) may be used only when evaluating the mobility of metals. Borosilicate glass bottles are recommended for use over other types of glass bottles, especially when inorganics are analytes of concern.

4.4 Filters: Filters shall be made of borosilicate glass fiber, shall contain no binder materials, and shall have an effective pore size of 0.6 to 0.8 µm, or equivalent. Filters known to EPA which meet these specifications are identified in Table 5. Pre-filters must not be used. When evaluating the mobility of metals, filters shall be acid-washed prior to use by rinsing with 1N nitric acid followed by three consecutive rinses with deionized distilled water (a minimum of 1 L per rinse is recommended). Glass fiber filter are fragile and should be handled with care.

4.5 pH Meters: The meter should be accurate to ± 0.05 units at 25°C.

4.6 ZHE Extract Collection Devices: TEDLAR® bags or glass, stainless steel or PTFE gag-tight syringes are used to collect the initial liquid phase and the final extract of the waste when using the ZHE device. The devices listed are recommended for use under the following conditions:

4.6.1 If a waste contains an aqueous liquid phase or if a waste does not contain a significant amount of nonaqueous liquid (i.e., <1% of total waste), the TEDLAR® bag or a

600 mL syringe should be used to collect and combine the initial liquid and solid extract.

4.6.2 If a waste contains a significant amount of nonaqueous liquid in the initial liquid phase (i.e., >1% of total waste), the syringe or the TEDLAR® bag may be used for both the initial solid/liquid separation and the final extract filtration. However, analysts should use one or the other, not both.

4.6.3 If the waste contains no initial liquid phase (is 100% solid) or has no significant solid phase (is 100% liquid), either the TEDLAR® bag or the syringe may be used. If the syringe is used, discard the first 5 mL of liquid expressed from the device. The remaining aliquots are used for analysis.

4.7 ZHE Extraction Fluid Transfer Devices: Any device capable of transferring the extraction fluid into the ZHE without changing the nature of the extraction fluid is acceptable (e.g. a positive displacement or peristaltic pump, a gas tight syringe, pressure filtration unit (see section 4.3.2), or other ZHE device).

4.8 Laboratory Balance: Any laboratory balance accurate to within ± 0.01 grams may be used (all weight measurements are to be within ± 0.1 grams).

4.9 Beaker or Erlenmeyer flask, glass, 500 mL.

4.10 Watchglass, appropriate diameter to cover beaker or erlenmeyer flask.

4.11 Magnetic stirrer.

5.0 Reagents

5.1 Reagent grade chemicals shall be used in all tests. Unless otherwise indicated, it is intended that all reagents shall conform to the specifications of the Committee on Analytical Reagents of the American Chemical Society, where such specifications are available. Other grades may be used, provided it is first ascertained that the reagent is of sufficiently high purity to permit its use without lessening the accuracy of the determination.

5.2 Reagent water. Reagent water is defined as water in which an interferant is not observed at or above the methods detection limit of the analyte(s) of interest. For nonvolatile extractions, ASTM Type II water or equivalent meets the definition of reagent water. For volatile extractions, it is recommended that reagent water be generated by any of the following methods. Reagent water should be monitored periodically for impurities.

5.2.1 Reagent water for volatile extractions may be generated by passing tap water through a carbon filter bed containing about 500 grams of activated carbon (Calgon Corp., Filtrasorb-300 or equivalent).

5.2.2 A water purification system (Millipore Super-Q or equivalent) may also be used to generate reagent water for volatile extractions.

5.2.3 Reagent water for volatile extractions may also be prepared by boiling water for 15 minutes. Subsequently, while maintaining the water temperature at 90 \pm 5 degrees C, bubble a contaminant-free inert gas (e.g., nitrogen) through the water for 1 hour. While still hot, transfer the water to a narrow mouth screw-cap bottle under zero-

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headspace and seal with a Teflon-lined septum and cap.

5.3 Hydrochloric acid (1N), HCl, made from ACS reagent grade.

5.4 Nitric acid (1N), HNO₃, made from ACS reagent grade.

5.5 Sodium hydroxide (1N), NaOH, made from ACS reagent grade.

5.6 Glacial acetic acid, CH₃CH₂OOH, ACS reagent grade.

5.7 Extraction fluid.

5.7.1 Extraction fluid #1: Add 5.7 mL glacial CH₃CH₂OOH to 500 mL of reagent water (See section 5.2), add 64.3 mL of 1N NaOH, and dilute to a volume of 1 liter. When correctly prepared, the pH of this fluid will be 4.93 ± 0.05.

5.7.2 Extraction fluid #2: Dilute 5.7 mL glacial CH₃CH₂OOH with reagent water (See section 5.2) to a volume of 1 liter. When correctly prepared, the pH of this fluid will be 2.88 ± 0.05.

Note: These extraction fluids should be monitored frequently for impurities. The pH should be checked prior to use to ensure that these fluids are made up accurately. If impurities are found or the pH is not within the above specifications, the fluid shall be discarded and fresh extraction fluid prepared.

5.8 Analytical standards shall be prepared according to the appropriate analytical method.

6.0 Sample Collection, Preservation, and Handling

6.1 All samples shall be collected using an appropriate sampling plan.

6.2 The TCLP may place requirements on the minimal size of the field sample, depending upon the physical state or states of the waste and the analytes of concern. An aliquot is needed for preliminary evaluation of which extraction fluid is to be used for the nonvolatile analyte extraction procedure. Another aliquot may be needed to actually conduct the nonvolatile extraction (see section 1.4 concerning the use of this extract for volatile organics). If volatile organics are of concern, another aliquot may be needed. Quality control measures may require additional aliquots. Further, it is always wise to collect more samples just in case something goes wrong with the initial attempt to conduct the test.

6.3 Preservatives shall not be added to samples before extraction.

6.4 Samples may be refrigerated unless refrigeration results in irreversible physical change to the waste. If precipitation occurs, the entire sample (including precipitate) should be extracted.

6.5 When the waste is to be evaluated for volatile analytes, care shall be taken to minimize the loss of volatiles. Samples shall be collected and stored in a manner intended to prevent the loss of volatile analytes (e.g.,

samples should be collected in Teflon-lined septum capped vials and stored at 4 °C. Samples should be opened only immediately prior to extraction).

6.6 TCLP extracts should be prepared for analysis and analyzed as soon as possible following extraction. Extracts or portions of extracts for metallic analyte determinations must be acidified with nitric acid to a pH < 2, unless precipitation occurs (see section 7.2.14 if precipitation occurs). Extracts should be preserved for other analytes according to the guidance given in the individual analysis methods. Extracts or portions of extracts for organic analyte determinations shall not be allowed to come into contact with the atmosphere (i.e., no headspace) to prevent losses. See section 8.0 (QA requirements) for acceptable sample and extract holding times.

7.0 Procedure

7.1 Preliminary Evaluations. Perform preliminary TCLP evaluations on a minimum 100 gram aliquot of waste. This aliquot may not actually undergo TCLP extraction. These preliminary evaluations include: (1) Determination of the percent solids (section 7.1.1); (2) determination of whether the waste contains insignificant solids and is, therefore, its own extract after filtration (section 7.1.2); (3) determination of whether the solid portion of the waste requires particle size reduction (section 7.1.3); and (4) determination of which of the two extraction fluids are to be used for the nonvolatile TCLP extraction of the waste (section 7.1.4).

7.1.1 Preliminary determination of percent solids: Percent solids is defined as that fraction of a waste sample (as a percentage of the total sample) from which no liquid may be forced out by an applied pressure, as described below.

7.1.1.1 If the waste will obviously yield no liquid when subjected to pressure filtration (i.e., is 100% solids) proceed to section 7.1.3.

7.1.1.2 If the sample is liquid or multiphasic, liquid/solid separation to make a preliminary determination of percent solids is required. This involves the filtration device described in section 4.3.2 and is outlined in sections 7.1.1.3 through 7.1.1.9.

7.1.1.3 Pre-weigh the filter and the container that will receive the filtrate.

7.1.1.4 Assemble the filter holder and filter following the manufacturer's instructions. Place the filter on the support screen and secure.

7.1.1.5 Weigh out a subsample of the waste (100 gram minimum) and record the weight.

7.1.1.6 Allow slurries to stand to permit the solid phase to settle. Wastes that settle slowly may be centrifuged prior to filtration. Centrifugation is to be used only as an aid to filtration. If used, the liquid should be decanted and filtered followed by filtration of

the solid portion of the waste through the same filtration system.

7.1.1.7 Quantitatively transfer the waste sample to the filter holder (liquid and solid phases). Spread the waste sample evenly over the surface of the filter. If filtration of the waste at 4 °C reduces the amount of expressed liquid over what would be expressed at room temperature then allow the sample to warm up to room temperature in the device before filtering.

Note: If waste material (>1% of original sample weight) has obviously adhered to the container used to transfer the sample to the filtration apparatus, determine the weight of this residue and subtract it from the sample weight determined in section 7.1.1.5 to determine the weight of the waste sample that will be filtered.

Gradually apply vacuum or gentle pressure of 1–10 psi, until air or pressurizing gas moves through the filter. If this point is not reached under 10 psi, and if no additional liquid has passed through the filter in any 2 minute interval, slowly increase the pressure in 10 psi increments to a maximum of 50 psi. After each incremental increase of 10 psi, if the pressurizing gas has not moved through the filter, and if no additional liquid has passed through the filter in any 2 minute interval, proceed to the next 10 psi increment. When the pressurizing gas begins to move through the filter, or when liquid flow has ceased at 50 psi (i.e., filtration does not result in any additional filtrate within any 2 minute period), stop the filtration.

Note: Instantaneous application of high pressure can degrade the glass fiber filter and may cause premature plugging.

7.1.1.8 The material in the filter holder is defined as the solid phase of the waste, and the filtrate is defined as the liquid phase.

Note: Some wastes, such as oily wastes and some paint wastes, will obviously contain some material that appears to be a liquid. Even after applying vacuum or pressure filtration, as outlined in section 7.1.1.7, this material may not filter. If this is the case, the material within the filtration device is defined as a solid. Do not replace the original filter with a fresh filter under any circumstances. Use only one filter.

7.1.1.9 Determine the weight of the liquid phase by subtracting the weight of the filtrate container (see section 7.1.1.3) from the total weight of the filtrate-filled container. Determine the weight of the solid phase of the waste sample by subtracting the weight of the liquid phase from the weight of the total waste sample, as determined in section 7.1.1.5 or 7.1.1.7.

Record the weight of the liquid and solid phases. Calculate the percent solids as follows:

$$\text{Percent solids} = \frac{\text{Weight of solid (section 7.1.1.9)}}{\text{Total weight of waste (section 7.1.1.5 or 7.1.1.7)}} \times 100$$

7.1.2 If the percent solids determined in section 7.1.1.9 is equal to or greater than 0.5%, then proceed either to section 7.1.3 to determine whether the solid material requires particle size reduction or to section 7.1.2.1 if it is noticed that a small amount of the filtrate is entrained in wetting of the filter. If the percent solids determined in section 7.1.1.9 is less than 0.5%, then proceed to section 7.2.9 if

the nonvolatile TCLP is to be performed and to section 7.3 with a fresh portion of the waste if the volatile TCLP is to be performed.

7.1.2.1 Remove the solid phase and filter from the filtration apparatus.

7.1.2.2 Dry the filter and solid phase at $100 \pm 20^\circ\text{C}$ until two successive weighings yield the same value within $\pm 1\%$. Record the final weight.

Note: Caution should be taken to ensure that the subject solid will not flash upon heating. It is recommended that the drying oven be vented to a hood or other appropriate device.

7.1.2.3 Calculate the percent dry solids as follows:

$$\% \text{ dry solids} = \frac{(\text{Weight of dry waste + filter}) - \text{tared weight of filter}}{\text{Initial weight of waste (section 7.1.1.5 or 7.1.1.7)}} \times 100$$

7.1.2.4 If the percent dry solids is less than 0.5%, then proceed to section 7.2.9 if the nonvolatile TCLP is to be performed, and to section 7.3 if the volatile TCLP is to be performed. If the percent dry solids is greater than or equal to 0.5%, and if the nonvolatile TCLP is to be performed, return to the beginning of this section (7.1) and, with a fresh portion of waste, determine whether particle size reduction is necessary (section 7.1.3) and determine the appropriate extraction fluid (section 7.1.4). If only the volatile TCLP is to be performed, see the note in section 7.1.4.

7.1.3 Determination of whether the waste requires particle size reduction (particle size is reduced during this step): Using the solid portion of the waste, evaluate the solid for particle size. Particle size reduction is required, unless the solid has a surface area per gram of material equal to or greater than 3.1 cm^2 , or is smaller than 1 cm in its narrowest dimension (i.e., is capable of passing through a 9.5 mm (0.375 inch) standard sieve). If the surface area is smaller or the particle size larger than described above, prepare the solid portion of the waste for extraction by crushing, cutting, or grinding the waste to a surface area or particle size as described above. If the solids are prepared for organic volatiles extraction, special precautions must be taken (see section 7.3.6).

Note: Surface area criteria are meant for filamentous (e.g., paper, cloth, and similar) waste materials. Actual measurement of surface area is not required, nor is it recommended. For materials that do not obviously meet the criteria, sample-specific methods would need to be developed and employed to measure the surface area. Such methodology is currently not available.

7.1.4 Determination of appropriate extraction fluid: If the solid content of the waste is greater than or equal to 0.5% and if the sample will be extracted for nonvolatile constituents (section 7.2), determine the appropriate fluid (section 5.7) for the nonvolatiles extraction as follows:

Note: TCLP extraction for volatile constituents uses only extraction fluid #1 (section 5.7.1). Therefore, if TCLP extraction for nonvolatiles is not required, proceed to section 7.3.

7.1.4.1 Weigh out a small subsample of the solid phase of the waste, reduce the solid (if necessary) to a particle size of approximately 1 mm in diameter or less, and transfer 5.0 grams of the solid phase of the

waste to a 500 mL beaker or Erlenmeyer flask.

7.1.4.2 Add 96.5 mL of reagent water to the beaker, cover with a watchglass, and stir vigorously for 5 minutes using a magnetic stirrer. Measure and record the pH. If the pH is < 5.0 , use extraction fluid #1. Proceed to section 7.2.

7.1.4.3 If the pH from section 7.1.4.2 is > 5.0 , add 3.5 mL 1N NCl, slurry briefly, cover with a watchglass, heat to 50°C , and hold at 50°C for 10 minutes.

7.1.4.4 Let the solution cool to room temperature and record the pH. If the pH is < 5.0 , use extraction fluid #1. If the pH is > 5.0 , use extraction fluid #2. Proceed to section 7.2.

7.1.5 If the aliquot of the waste used for the preliminary evaluation (sections 7.1.1–7.1.4) was determined to be 100% solid at section 7.1.1.1, then it can be used for the section 7.2 extraction (assuming at least 100 grams remain), and the section 7.3 extraction (assuming at least 25 grams remain). If the aliquot was subjected to the procedure in section 7.1.1.7, then another aliquot shall be used for the volatile extraction procedure in section 7.3. The aliquot of the waste subjected to the procedure in section 7.1.1.7 might be appropriate for use for the section 7.2 extraction if an adequate amount of solid (as determined by section 7.1.1.9) was obtained. The amount of solid necessary is dependent upon whether a sufficient amount of extract will be produced to support the analyses. If an adequate amount of solid remains, proceed to section 7.2.10 of the nonvolatile TCLP extraction.

7.2 Procedure When Volatiles are not Involved. A minimum sample size of 100 grams (solid and liquid phases) is recommended. In some cases, a larger sample size may be appropriate, depending on the solids content of the waste sample (percent solids). See section 7.1.1, whether the initial liquid phase of the waste will be miscible with the aqueous extract of the solid, and whether inorganics, semivolatile organics, pesticides, and herbicides are all analytes of concern. Enough solids should be generated for extraction such that the volume of TCLP extract will be sufficient to support all of the analyses required. If the amount of extract generated by a single TCLP extraction will not be sufficient to perform all of the analyses, more than one extraction may be performed and the extracts from each combined and aliquoted for analysis.

7.2.1 If the waste will obviously yield no liquid when subjected to pressure filtration (i.e., is 100% solid, see section 7.1.1), weigh out a subsample of the waste (100 gram minimum) and proceed to section 7.2.9.

7.2.2 If the sample is liquid or multiphase, liquid/solid separation is required. This involves the filtration device described in section 4.3.2 and is outlined in sections 7.2.3 to 7.2.8.

7.2.3 Pre-weigh the container that will receive the filtrate.

7.2.4 Assemble the filter holder and filter following the manufacturer's instructions. Place the filter on the support screen and secure. Acid-wash the filter if evaluating the mobility of metals (see section 4.4).

Note: Acid-washed filters may be used for all nonvolatile extractions even when metals are not of concern.

7.2.5 Weigh out a subsample of the waste (100 gram minimum) and record the weight. If the waste contains $< 0.5\%$ dry solids (section 7.1.2), the liquid portion of the waste, after filtration, is defined as the TCLP extract. Therefore, enough of the sample should be filtered so that the amount of filtered liquid will support all of the analyses required of the TCLP extract. For wastes containing $> 0.5\%$ dry solids (sections 7.1.1 or 7.1.2), use the percent solids information obtained in section 7.1.1 to determine the optimum sample size (100 gram minimum) for filtration. Enough solids should be generated by filtration to support the analyses to be performed on the TCLP extract.

7.2.6 Allow slurries to stand to permit the solid phase to settle. Wastes that settle slowly may be centrifuged prior to filtration. Use centrifugation only as an aid to filtration. If the waste is centrifuged, the liquid should be decanted and filtered followed by filtration of the solid portion of the waste through the same filtration system.

7.2.7 Quantitatively transfer the waste sample (liquid and solid phases) to the filter holder (see section 4.3.2). Spread the waste sample evenly over the surface of the filter. If filtration of the waste at 4°C reduces the amount of expressed liquid over what would be expressed at room temperature, then allow the sample to warm up to room temperature in the device before filtering.

Note: If waste material ($> 1\%$ of the original sample weight) has obviously adhered to the container used to transfer the sample to the filtration apparatus, determine the weight of

this residue and subtract it from the sample weight determined in section 7.2.5, to determine the weight of the waste sample that will be filtered.

Gradually apply vacuum or gentle pressure of 1–10 psi, until air or pressurizing gas moves through the filter. If this point is reached under 10 psi, and if no additional liquid has passed through the filter in any 2 minute interval, slowly increase the pressure in 10 psi increments to a maximum of 50 psi. After each incremental increase of 10 psi, if the pressurizing gas has not moved through the filter, and if no additional liquid has passed through the filter in any 2 minute interval, proceed to the next 10 psi increment. When the pressurizing gas begins to move through the filter, or when the liquid flow has ceased at 50 psi (i.e., filtration does not result in any additional filtrate within a 2 minute period), stop the filtration.

Note: Instantaneous application of high pressure can degrade the glass fiber filter and may cause premature plugging.

7.2.8 The material in the filter holder is defined as the solid phase of the waste, and the filtrate is defined as the liquid phase. Weigh the filtrate. The liquid phase may now be either analyzed (See section 7.2.12) or stored at 4°C until time of analysis.

Note: Some wastes, such as oily wastes and some paint wastes, will obviously contain some material that appears to be a liquid. Even after applying vacuum or pressure filtration, as outlined in section 7.2.7, this material may not filter. If this is the case, the material within the filtration device is defined as a solid and is carried through the extraction as a solid. Do not replace the original filter with a fresh filter under any circumstances. Use only one filter.

7.2.9 If the waste contains <0.5% dry solids (see section 7.1.2), proceed to section 7.2.13. If the waste contains >0.5% dry solids (see section 7.1.1 or 7.1.2), and if particle size reduction of the solid was needed in section 7.1.3, proceed to section 7.2.10. If the waste as received passes a 9.5 mm sieve,

quantitatively transfer the solid material into the extractor bottle along with the filter used to separate the initial liquid from the solid phase, and proceed to section 7.2.11.

7.2.10 Prepare the solid portion of the waste for extraction by crushing, cutting, or grinding the waste to a surface area or particle size as described in section 7.1.3. When the surface area or particle size has been appropriately altered, quantitatively transfer the solid material into an extractor bottle. Include the filter used to separate the initial liquid from the solid phase.

Note: Sieving of the waste is not normally required. Surface area requirements are meant for filamentous (e.g., paper, cloth) and similar waste materials. Actual measurement of surface area is not recommended. If sieving is necessary, a Teflon-coated sieve should be used to avoid contamination of the sample.

7.2.11 Determine the amount of extraction fluid to add to the extractor vessel as follows:

$$\text{Weight of extraction fluid} = \frac{20 \times \text{percent solids (section 7.1.1)} \times \text{weight of waste filtered (section 7.2.5 or 7.2.7)}}{100}$$

Slowly add this amount of appropriate extraction fluid (see section 7.1.4) to the extractor vessel. Close the extractor bottle tightly (it is recommended that Teflon tape be used to ensure a tight seal), secure in rotary agitation device, and rotate at 30 ± 2 rpm for 18 ± 2 hours. Ambient temperature (i.e., temperature of room in which extraction takes place) shall be maintained at $23 \pm 2^\circ\text{C}$ during the extraction period.

Note: As agitation continues, pressure may build within the extractor bottle for some types of wastes (e.g., limed or calcium carbonate containing waste may evolve gases such as carbon dioxide). To relieve excess pressure, the extractor bottle may be periodically opened (e.g., after 15 minutes, 30 minutes, and 1 hour) and vented into a hood.

7.2.12 Following the 18 ± 2 hour extraction, separate the material in the extractor vessel into its component liquid and solid phases by filtering through a new glass fiber filter, as outlined in section 7.2.7. For final filtration of the TCLP extract, the glass fiber filter may be changed, if necessary, to facilitate filtration. Filter(s) shall be acid-washed (see section 4.4) if evaluating the mobility of metals.

7.2.13 Prepare the TCLP extract as follows:

7.2.13.1 If the waste contained no initial liquid phase, the filtered liquid material obtained from section 7.2.12 is defined as the TCLP extract. Proceed to section 7.2.14.

7.2.13.2 If compatible (e.g., multiple phases will not result on combination), combine the filtered liquid resulting from section 7.2.12 with the initial liquid phase of the waste obtained in section 7.2.7. This combined liquid is defined as the TCLP extract. Proceed to section 7.2.14.

7.2.13.3 If the initial liquid phase of the waste, as obtained from section 7.2.7, is not

or may not be compatible with the filtered liquid resulting from section 7.2.12, do not combine these liquids. Analyze these liquids, collectively defined as the TCLP extract, and combine the results mathematically, as described in section 7.2.14.

7.2.14 Following collection of the TCLP extract, the pH of the extract should be recorded. Immediately aliquot and preserve the extract for analysis. Metals aliquots must be acidified with nitric acid to pH <2. If precipitation is observed upon addition of nitric acid to a small aliquot of the extract, then the remaining portion of the extract for metals analyses shall not be acidified and the extract shall be analyzed as soon as possible. All other aliquots must be stored under refrigeration (4°C) until analyzed. The TCLP extract shall be prepared and analyzed according to appropriate analytical methods. TCLP extracts to be analyzed for metals shall be acid digested except in those instances where digestion causes loss of metallic analytes. If an analysis of the undigested extract shows that the concentration of any regulated metallic analyte exceeds the regulatory level, then the waste is hazardous and digestion of the extract is not necessary. However, data on undigested extracts alone cannot be used to demonstrate that the waste is not hazardous. If the individual phases are to be analyzed separately, determine the volume of the individual phases (to $\pm 0.5\%$), conduct the appropriate analyses, and combine the results mathematically by using a simple volume-weighted average:

$$\text{Final Analyte Concentration} = \frac{(V_1)(C_1) + (V_2)(C_2)}{V_1 + V_2}$$

where:

V_1 = The volume of the first phase (L).

C_1 = The concentration of the analyte of concern in the first phase (mg/L).

V_2 = The volume of the second phase (L).

C_2 = The concentration of the analyte of concern in the second phase (mg/L).

7.2.15 Compare the analyte concentrations in the TCLP extract with the levels identified in the appropriate regulations. Refer to section 8.0 for quality assurance requirements.

7.3 Procedure When Volatiles are Involved. Use the ZHE device to obtain TCLP extract for analysis of volatile compounds only. Extract resulting from the use of the ZHE shall not be used to evaluate the mobility of nonvolatile analytes (e.g., metals, pesticides, etc.).

The ZHE device has approximately a 500 mL internal capacity. The ZHE can thus accommodate a maximum of 25 grams of solid (defined as that fraction of a sample from which no additional liquid may be forced out by an applied pressure of 50 psi), due to the need to add an amount of extraction fluid equal to 20 times the weight of the solid phase.

Charge the ZHE with sample only once and do not open the device until the final extract (of the solid) has been collected. Repeated filling of the ZHE to obtain 25 grams of solid is not permitted.

Do not allow the waste, the initial liquid phase, or the extract to be exposed to the atmosphere for any more time than is absolutely necessary. Any manipulation of these materials should be done when cold (4°C) to minimize loss of volatiles.

7.3.1 Pre-weigh the (evacuated) filtrate collection container (See section 4.6) and set aside. If using a TEDLAR® bag, express all liquid from the ZHE device into the bag.

whether for the initial or final liquid/solid separation, and take an aliquot from the liquid in the bag for analysis. The containers listed in section 4.6 are recommended for use under the conditions stated in sections 4.6.1-4.6.3.

7.3.2 Place the ZHE piston within the body of the ZHE (it may be helpful first to moisten the piston O-rings slightly with extraction fluid). Adjust the piston within the ZHE body to a height that will minimize the distance the piston will have to move once the ZHE is charged with sample (based upon sample size requirements determined from section 7.3, section 7.1.1 and/or 7.1.2). Secure

the gas inlet/outlet flange (bottom flange) onto the ZHE body in accordance with the manufacturer's instructions. Secure the glass fiber filter between the support screens and set aside. Set liquid inlet/outlet flange (top flange) aside.

7.3.3 If the waste is 100% solid (see section 7.1.1), weigh out a subsample (25 gram maximum) of the waste, record weight, and proceed to section 7.3.5.

7.3.4 If the waste contains <5% dry solids (section 7.1.2), the liquid portion of waste, after filtration, is defined as the TCLP extract. Filter enough of the sample so that the amount of filtered liquid will support all

of the volatile analyses required. For wastes containing >5% dry solids (sections 7.1.1 and/or 7.1.2), use the percent solids information obtained in section 7.1.1 to determine the optimum sample size to charge into the ZHE. The recommended sample size is as follows:

7.3.4.1 For wastes containing <5% solids (see Section 7.1.1), weigh out a 500 gram subsample of waste and record the weight.

7.3.4.2 For wastes containing >5% solids (see Section 7.1.1), determine the amount of waste to charge into the ZHE as follows:

$$\text{Weight of waste to charge ZHE} = \frac{25}{\text{percent solids (section 7.1.1)}} \times 100$$

Weigh out a subsample of the waste of the appropriate size and record the weight.

7.3.5 If particle size reduction of the solid portion of the waste was required in section 7.1.3, proceed to section 7.3.6. If particle size reduction was not required in section 7.1.3, proceed to section 7.3.7.

7.3.6 Prepare the waste for extraction by crushing, cutting, or grinding the solid portion of the waste to a surface area or particle size as described in section 7.1.3.1. Wastes and appropriate reduction equipment should be refrigerated, if possible, to 4°C prior to particle size reduction. The means used to effect particle size reduction must not generate heat in and of itself. If reduction of the solid phase of the waste is necessary, exposure of the waste to the atmosphere should be avoided to the extent possible.

Note: Sieving of the waste is not recommended due to the possibility that volatiles may be lost. The use of an appropriately graduated ruler is recommended as an acceptable alternative. Surface area requirements are meant for filamentous (e.g., paper, cloth) and similar waste materials. Actual measurement of surface area is not recommended.

When the surface area or particle size has been appropriately altered, proceed to section 7.3.7.

7.3.7 Waste slurries need not be allowed to stand to permit the solid phase to settle. Do not centrifuge wastes prior to filtration.

7.3.8 Quantitatively transfer the entire sample (liquid and solid phases) quickly to the ZHE. Secure the filter and support screens onto the top flange of the device and

secure the top flange to the ZHE body in accordance with the manufacturer's instructions. Tighten all ZHE fittings and place the device in the vertical position (gas inlet/outlet flange on the bottom). Do not attach the extract collection device to the top plate.

Note: If waste material (>1% of original sample weight) has obviously adhered to the container used to transfer the sample to the ZHE, determine the weight of this residue and subtract it from the sample weight determined in section 7.3.4 to determine the weight of the waste sample that will be filtered.

Attach a gas line to the gas inlet/outlet valve (bottom flange) and, with the liquid inlet/outlet valve (top flange) open, begin applying gentle pressure of 1-10 psi (or more if necessary) to force all headspace slowly out of the ZHE device into a hood. At the first appearance of liquid from the liquid inlet/outlet valve, quickly close the valve and discontinue pressure. If filtration of the waste at 4 °C reduces the amount of expressed liquid over what would be expressed at room temperature, then allow the sample to warm up to room temperature in the device before filtering. If the waste is 100% solid (see section 7.1.1), slowly increase the pressure to a maximum of 50 psi to force most of the headspace out of the device and proceed to section 7.3.12.

7.3.9 Attach the evacuated pre-weighed filtrate collection container to the liquid inlet/outlet valve and open the valve. Begin applying gentle pressure of 1-10 psi to force the liquid phase of the sample into the filtrate

collection container. If no additional liquid has passed through the filter in any 2 minute interval, slowly increase the pressure in 10 psi increments to a maximum of 50 psi. After each incremental increase of 10 psi, if no additional liquid has passed through the filter in any 2 minute interval, proceed to the next 10 psi increment. When liquid flow has ceased such that continued pressure filtration at 50 psi does not result in any additional filtrate within a 2 minute period, stop the filtration. Close the liquid inlet/outlet valve, discontinue pressure to the piston, and disconnect and weigh the filtrate collection container.

Note: Instantaneous application of high pressure can degrade the glass fiber filter and may cause premature plugging.

7.3.10 The material in the ZHE is defined as the solid phase of the waste and the filtrate is defined as the liquid phase.

Note: Some wastes, such as oily wastes and some paint wastes, will obviously contain some material that appears to be a liquid. Even after applying pressure filtration, this material will not filter. If this is the case, the material within the filtration device is defined as a solid and is carried through the TCLP extraction as a solid.

If the original waste contained <0.5% dry solids (see section 7.1.2), this filtrate is defined as the TCLP extract and is analyzed directly. Proceed to section 7.3.15.

7.3.11 The liquid phase may now be either analyzed immediately (See sections 7.3.13 through 7.3.15) or stored at 4°C under minimal headspace conditions until time of analysis.

Determine the weight of extraction fluid #1 to add to the ZHE as follows:

$$\text{Weight of extraction fluid} = \frac{20 \times \text{percent solids (section 7.1.1)} \times \text{weight of waste filtered (section 7.3.4 or 7.3.8)}}{100}$$

7.3.12 The following sections detail how to add the appropriate amount of extraction fluid to the solid material within the ZHE and agitation of the ZHE vessel. Extraction fluid #1 is used in all cases (See section 5.7).

7.3.12.1 With the ZHE in the vertical position, attach a line from the extraction fluid reservoir to the liquid inlet/outlet valve. The line used shall contain fresh extraction fluid and should be preflushed with fluid to eliminate any air pockets in the line. Release gas pressure on the ZHE piston (from the gas inlet/outlet valve), open the liquid inlet/outlet valve, and begin transferring extraction fluid (by pumping or similar means) into the ZHE. Continue pumping extraction fluid into the ZHE until the appropriate amount of fluid has been introduced into the device.

7.3.12.2 After the extraction fluid has been added, immediately close the liquid inlet/outlet valve and disconnect the extraction fluid line. Check the ZHE to ensure that all valves are in their closed positions. Manually rotate the device in an end-over-end fashion 2 or 3 times. Reposition the ZHE in the vertical position with the liquid inlet/outlet valve on top. Pressurize the ZHE to 5-10 psi (if necessary) and slowly open the liquid inlet/outlet valve to bleed out any headspace (into a hood) that may have been introduced due to the addition of extraction fluid. This bleeding shall be done quickly and shall be stopped at the first appearance of liquid from the valve. Re-pressurize the ZHE with 5-10 psi and check all ZHE fittings to ensure that they are closed.

7.3.12.3 Place the ZHE in the rotary agitation apparatus (if it is not already there) and rotate at 30 ± 2 rpm for 18 ± 2 hours. Ambient temperature (i.e., temperature of room in which extraction occurs) shall be maintained at $22 \pm 3^\circ\text{C}$ during agitation.

7.3.13 Following the 18 ± 2 hour agitation period, check the pressure behind the ZHE piston by quickly opening and closing the gas inlet/outlet valve and noting the escape of gas. If the pressure has not been maintained (i.e., no gas release observed), the device is leaking. Check the ZHE for leaking as specified in section 4.2.1, and perform the extraction again with a new sample of waste. If the pressure within the device has been maintained, the material in the extractor vessel is once again separated into its component liquid and solid phases. If the waste contained an initial liquid phase, the liquid may be filtered directly into the same filtrate collection container (i.e., TEDLAR® bag) holding the initial liquid phase of the waste. A separate filtrate collection container must be used if combining would create multiple phases, or there is not enough

volume left within the filtrate collection container. Filter through the glass fiber filter, using the ZHE device as discussed in section 7.3.9. All extract shall be filtered and collected if the TEDLAR® bag is used, if the extract is multiphasic, or if the waste contained an initial liquid phase (see sections 4.6 and 7.3.1).

Note: An in-line glass fiber filter may be used to filter the material within the ZHE if it is suspected that the glass fiber filter has been ruptured.

7.3.14 If the original waste contained no initial liquid phase, the filtered liquid material obtained from section 7.3.13 is defined as the TCLP extract. If the waste contained an initial liquid phase, the filtered liquid material obtained from section 7.3.13 and the initial liquid phase (section 7.3.9) are collectively defined as the TCLP extract.

7.3.15 Following collection of the TCLP extract, immediately prepare the extract for analysis and store with minimal headspace at 4°C until analyzed. Analyze the TCLP extract according to the appropriate analytical methods. If the individual phases are to be analyzed separately (i.e., are not miscible), determine the volume of the individual phases (to 0.5%), conduct the appropriate analyses, and combine the results mathematically by using a simple volume-weighted average:

$$\text{Final Analyte Concentration} = \frac{(V_1)(C_1) + (V_2)(C_2)}{V_1 + V_2}$$

where:

V_1 = The volume of the first phases (L).

C_1 = The concentration of the analyte of concern in the first phase (mg/L).

V_2 = The volume of the second phase (L).

C_2 = The concentration of the analyte of concern in the second phase (mg/L).

7.3.16 Compare the analyte concentrations in the TCLP extract with the levels identified in the appropriate regulations. Refer to section 8.0 for quality assurance requirements.

8.0 Quality Assurance

8.1 A minimum of one blank (using the same extraction fluid as used for the samples) must be analyzed for every 20 extractions that have been conducted in an extraction vessel.

8.2 A matrix spike shall be performed for each waste type (e.g., wastewater treatment sludge, contaminated soil, etc.) unless the

result exceeds the regulatory level and the data is being used solely to demonstrate that the waste property exceeds the regulatory level. A minimum of one matrix spike must be analyzed for each analytical batch. The bias determined from the matrix spike determination shall be used to correct the measured values. (See sections 8.2.4 and 8.2.5.) As a minimum, follow the matrix spike addition guidance provided in each analytical method.

8.2.1 Matrix spikes are to be added after filtration of the TCLP extract and before preservation. Matrix spikes should not be added prior to TCLP extraction of the sample.

8.2.2 In most cases, matrix spikes should be added at a concentration equivalent to the corresponding regulatory level. If the analyte concentration is less than one half the regulatory level, the spike concentration may be as low as one half of the analyte concentration, but may not be not less than five times the method detection limit. In order to avoid differences in matrix effects, the matrix spikes must be added to the same nominal volume of TCLP extract as that which was analyzed for the unspiked sample.

8.2.3 The purpose of the matrix spike is to monitor the performance of the analytical methods used, and to determine whether matrix interferences exist. Use of other internal calibration methods, modification of the analytical methods, or use of alternate analytical methods may be needed to accurately measure the analyte concentration of the TCLP extract when the recovery of the matrix spike is below the expected analytical method performance.

8.2.4 Matrix spike recoveries are calculated by the following formula:

$$\%R (\% \text{ Recovery}) = 100 (X_s - X_u) / K$$

where:

X_s = measured value for the spiked sample,

X_u = measured value for the unspiked sample, and

K = known value of the spike in the sample.

8.2.5 Measured values are corrected for analytical bias using the following formula:

$$X_c = 100 (X_u / \%R)$$

where:

X_c = corrected value, and

X_u = measured value of the unspiked sample.

8.3 All quality control measures described in the appropriate analytical methods shall be followed.

8.4 Samples must undergo TCLP extraction within the following time periods:

SAMPLE MAXIMUM HOLDING TIMES (DAYS)

	From: Field collection to: TCLP extraction	From: TCLP extraction to: Prepara- tive extraction	From: prepara- tive extraction to: determi- native analysis	Total elapsed time
Volatiles.....	14	NA	14	28
Semivolatiles.....	14	7	40	61
Mercury.....	28	NA	28	56
Metals, except mercury.....	180	NA	180	360

NA=Not applicable.

If sample holding times are exceeded, the values obtained will be considered minimal concentrations. Exceeding the holding time is not acceptable in establishing that a waste does not exceed the regulatory level. Exceeding the holding time will not invalidate characterization if the waste exceeds the regulatory level.

TABLE 1.—VOLATILE ANALYTES ^{1,2}

Compound	CAS No.
Acetone.....	67-64-1
Benzene.....	71-43-2
n-Butyl alcohol.....	71-36-3
Carbon disulfide.....	75-15-0
Carbon tetrachloride.....	56-23-5
Chlorobenzene.....	108-90-7
Chloroform.....	67-66-3
1,2-Dichloroethane.....	107-06-2
1,1-Dichloroethylene.....	75-35-4
Ethyl acetate.....	141-78-6
Ethyl benzene.....	100-41-4
Ethyl ether.....	60-29-7
Isobutanol.....	78-83-1
Methanol.....	67-56-1
Methylene chloride.....	75-09-2
Methyl ethyl ketone.....	78-93-3
Methyl isobutyl ketone.....	108-10-1
Tetrachloroethylene.....	127-18-4
Toluene.....	108-88-3
1,1,1-Trichloroethane.....	71-55-6
Trichloroethylene.....	79-01-6
Trichlorofluoromethane.....	75-69-4
1,1,2-Trichloro-1,2,2-trifluoroethane.....	76-13-1
Vinyl chloride.....	75-01-4
Xylene.....	1330-20-7

¹ When testing for any or all of these analytes, the zero-headspace extractor vessel shall be used instead of the bottle extractor.

² Benzene, carbon tetrachloride, chlorobenzene, chloroform, 1,2-dichloroethane, 1,1-dichloroethylene, methyl ethyl ketone, tetrachloroethylene, trichloroethylene, and vinyl chloride are toxicity characteristic constituents.

TABLE 2.—SUITABLE ROTARY AGITATION APPARATUS ¹

Company	Location	Model No.
Analytical Testing and Consulting Services, Inc.	Warrington, PA, (215) 343-4490.	4-vessel (DC20S), 8-vessel (DC20), 12-vessel (DC20B).

TABLE 2.—SUITABLE ROTARY AGITATION APPARATUS ¹—Continued

Company	Location	Model No.
Associated Design and Manufacturing Company.	Alexandria, VA, (703) 549-5999.	2-vessel (3740-2), 4-vessel (3740-4), 6-vessel (3740-6), 8-vessel (3740-8), 12-vessel (3740-12), 24-vessel (3740-24).
Environmental Machine and Design, Inc.	Lynchburg, VA, (804) 845-6424.	8-vessel (08-00-00) 4-vessel (04-00-00).
IRA Machine Shop and Laboratory.	Santurce, PR, (809) 752-4004.	8-vessel (011001).
Lars Lande Manufacturing.	Whitmore Lake, MI, (313) 449-4116.	10-vessel (01VRE), 5-vessel (5VRE).
Millipore Corp.	Bedford, MA, (800) 225-3384.	4-ZHE or 4 1-liter, bottle extractor, (YT300RAHW).

¹ Any device that rotates the extraction vessel in an end-over-end fashion at 30 ± 2 rpm is acceptable.

TABLE 3.—SUITABLE ZERO-HEADSPACE EXTRACTOR VESSELS ¹

Company	Location	Model No.
Analytical Testing & Consulting Services, Inc.	Warrington, PA, (215) 343-4490.	C102, Mechanical Pressure Device.
Associated Design and Manufacturing Company.	Alexandria, VA, (703) 549-5999.	3745-ZHE, Gas Pressure Device.
Lars Lande Manufacturing.	Whitmore Lake, MI, (313) 449-4116.	ZHE-11, Gas Pressure Device.
Millipore Corporation.	Bedford, MA, (800) 225-3384.	YT30090HW, Gas Pressure Device.
Environmental Machine and Design, Inc.	Lynchburg, VA, (804) 845-6424.	VOLA-TOX1, Gas Pressure Device.

¹ Any device that meets the specifications listed in section 4.2.1. of the method is acceptable.

² This device uses a 110 mm filter.

TABLE 4.—SUITABLE FILTER HOLDERS ¹

Company	Location	Model/catalogue No.	Size
Nucleopore Corporation.	Pleasanton, CA, (800) 882-7711.	425910, 410400	142mm, 47 mm.
Micro Filtration Systems.	Dublin, CA, (800) 334-7132, (415) 828-6010.	302400, 311400	142 mm, 47 mm.
Millipore Corporation.	Bedford, MA, (800) 225-3384.	YT30142HW, XX1004700	142 mm, 47 mm.

¹ Any device capable of separating the liquid from the solid phase of the waste is suitable, providing that it is chemically compatible with the waste and the constituents to be analyzed. Plastic devices (not listed above) may be used when only inorganic analytes are of concern. The 142 mm size filter holder is recommended.

TABLE 5.—SUITABLE FILTER MEDIA ¹

Company	Location	Model	Pore Size (µm)
Millipore Corporation.	Bedford, MA, (800) 225-3384.	AP40	0.7
Nucleopore Corporation.	Pleasanton, CA, (415) 463-2530.	211625	0.7
Whatman Laboratory Products, Inc.	Clifton, NJ, (201) 773-5800.	GFF	0.7
Micro Filtration Systems.	Dublin, CA, (800) 334-7132, (415) 828-6010.	GF75	0.7

¹ Any filter that meets the specifications in section 4.4 of the Method is suitable.

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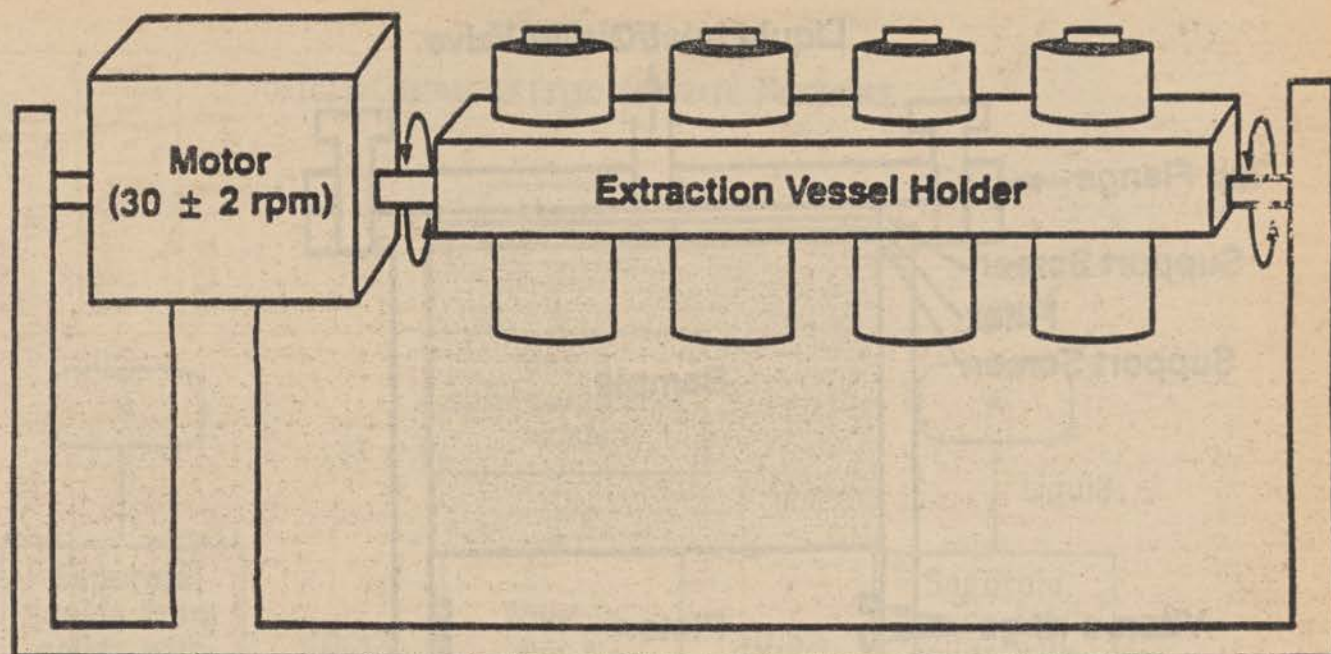


Figure 1. Rotary Agitation Apparatus

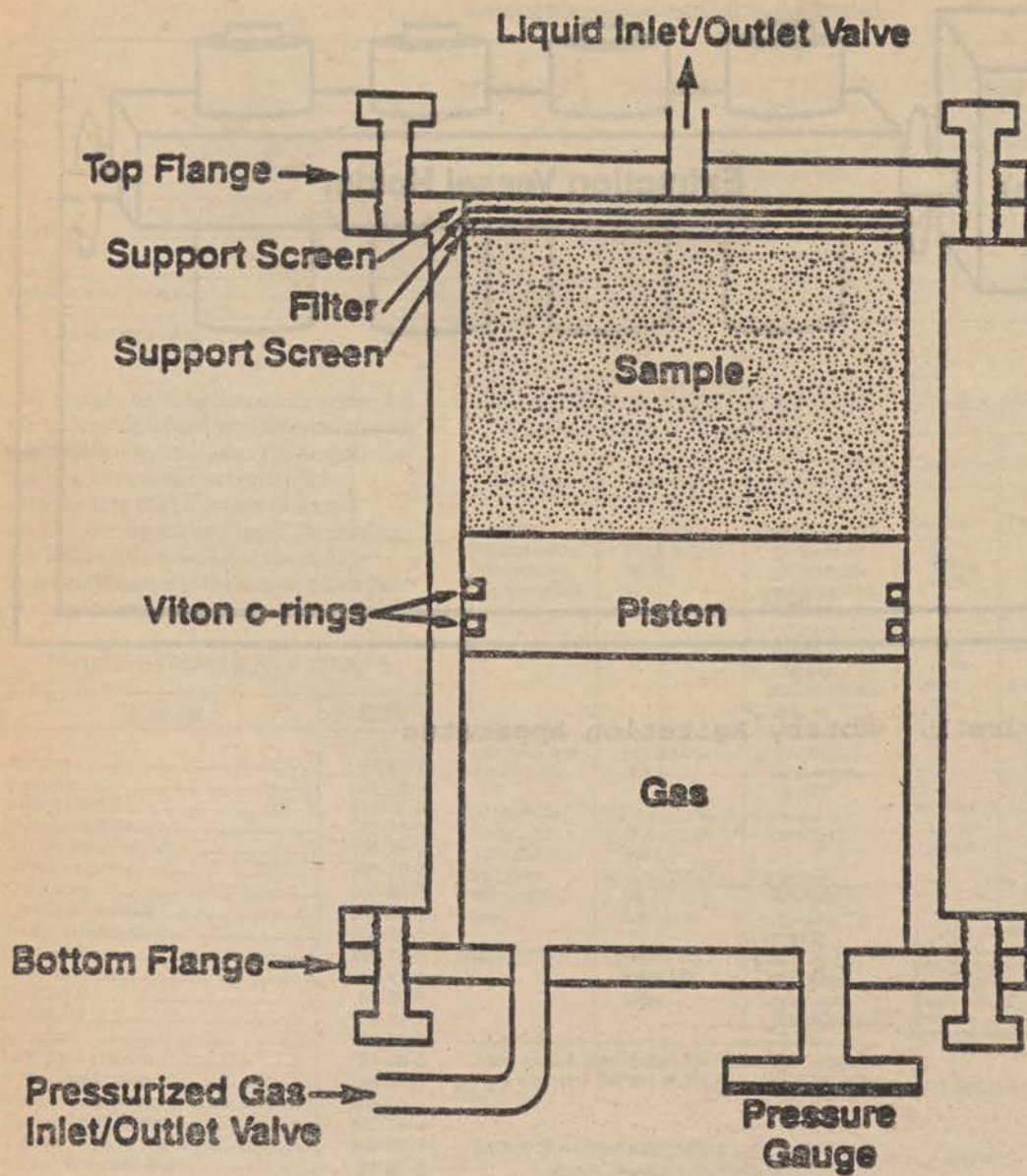
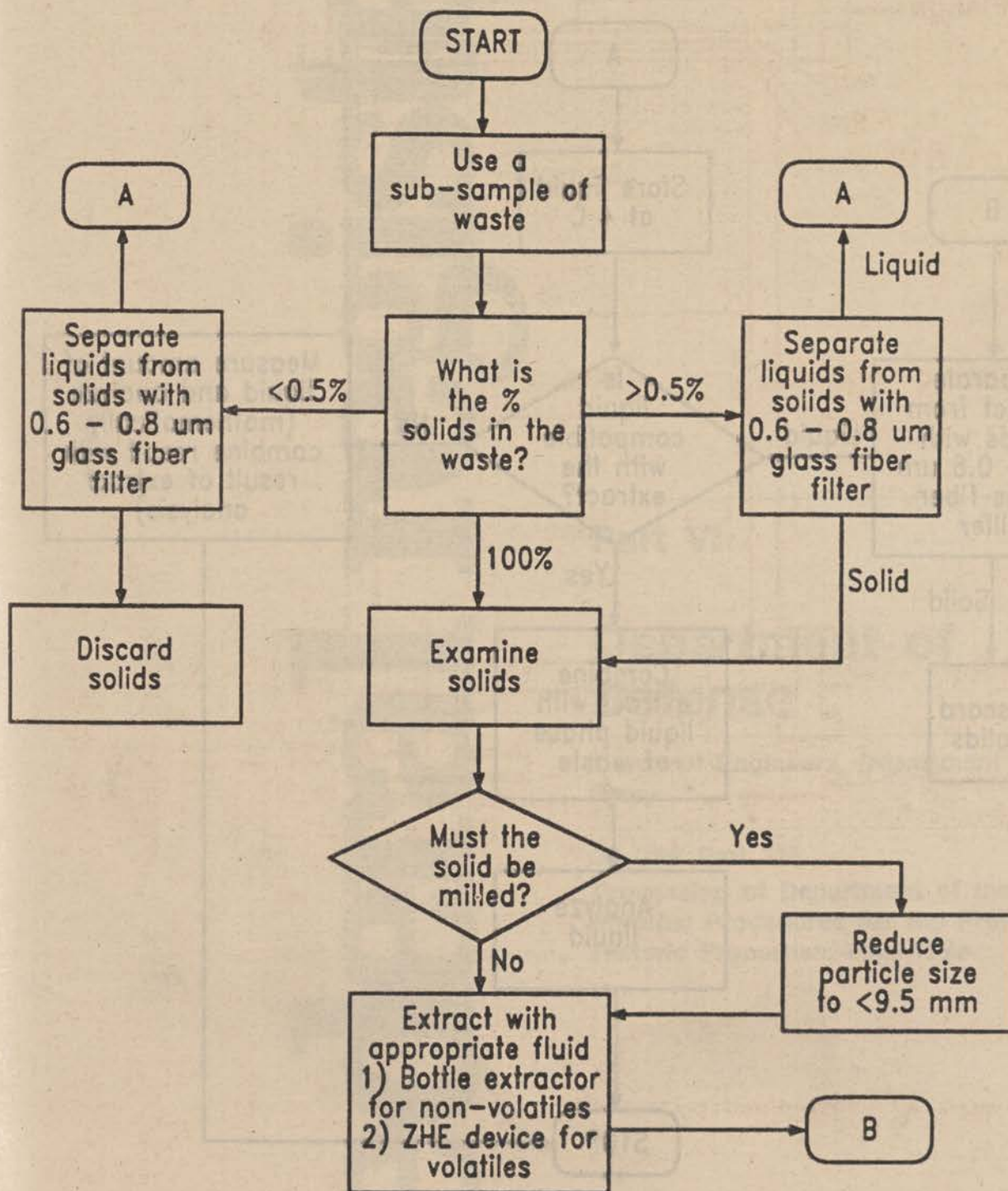


Figure 2. Zero-Headspace Extractor (ZHE)

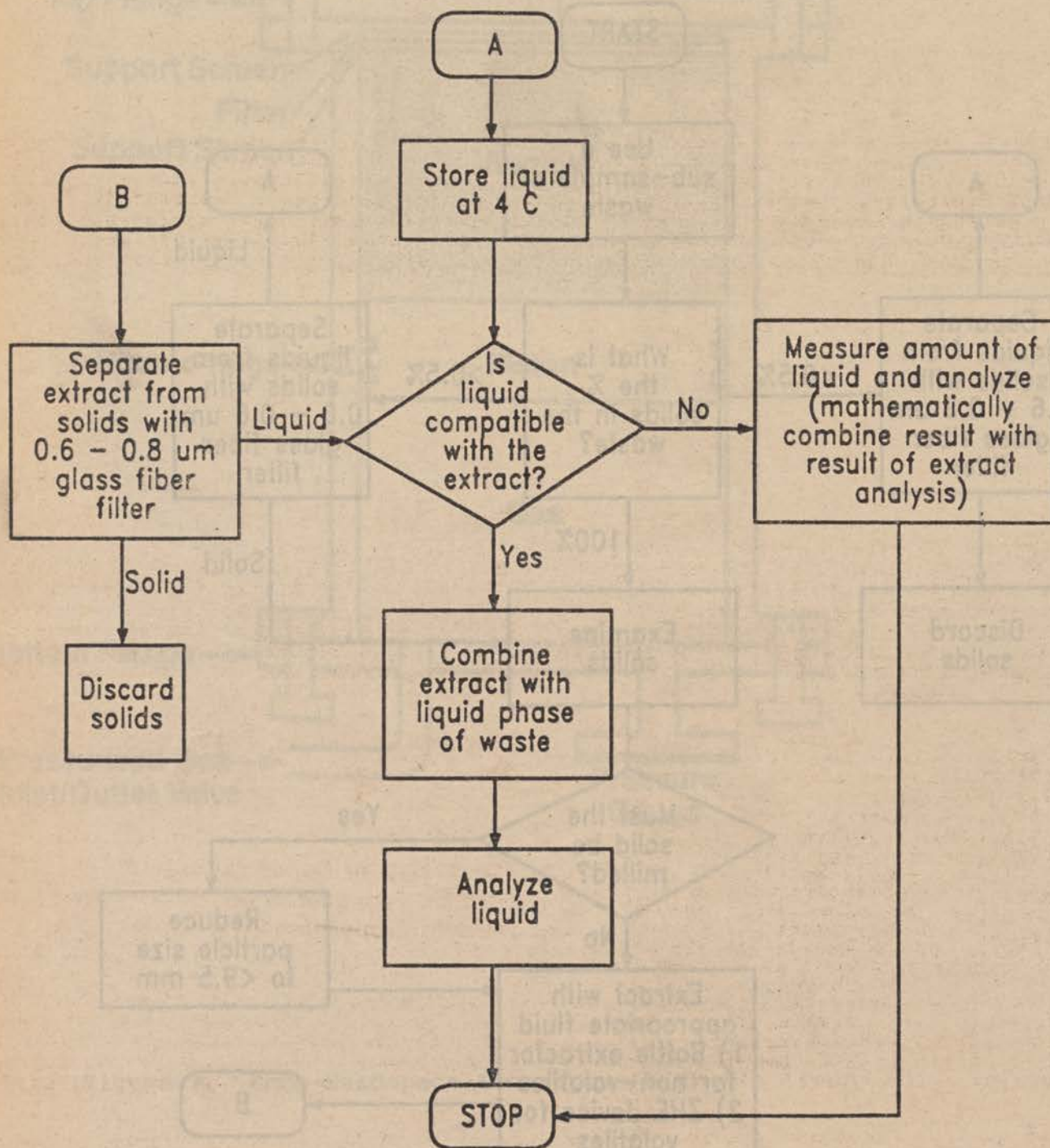
METHOD 1311

TOXICITY CHARACTERISTIC LEACHATE PROCEDURE



METHOD 1311 (CONTINUED)

TOXICITY CHARACTERISTIC LEACHATE PROCEDURE



Federal Register

Friday
June 29, 1990

Part VI

Department of Defense

Corps of Engineers, Department of the Army

33 CFR Part 325

Processing of Department of the Army Permits: Procedures for the Protection of Historic Properties; Final Rule

DEPARTMENT OF DEFENSE**Corps of Engineers, Department of the Army****33 CFR Part 325****Processing of Department of the Army Permits; Procedures for the Protection of Historic Properties**

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Final rule.

SUMMARY: This regulation (appendix C to 33 CFR Part 325) establishes the procedures to be followed by the U.S. Army Corps of Engineers (Corps) in its regulatory program in order to comply with the National Historic Preservation Act (NHPA), as amended, and other laws dealing with historic properties. This regulation provides for full consideration of impacts on historic properties.

EFFECTIVE DATE: June 29, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Sam Collinson, Regulatory Branch, (202) 272-1782.

SUPPLEMENTARY INFORMATION:**Environmental Documentation**

We have determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment. Appropriate environmental documentation is prepared for all permit decisions on a case-by-case basis.

Background

On April 3, 1980, we published a proposed appendix C, which was approved by the Advisory Council on Historic Preservation for use on an interim basis. We have been operating under that appendix since that time. On May 4, 1984, we published a new proposed appendix C. In response to public comment we have made a number of changes to that proposed appendix C as discussed below.

Public Comments

We received 51 comments on the May 4, 1984, proposed regulation (49 FR 19036), which covered a full range of views. All the comments were synthesized into major issues and are discussed below. In addition, on September 2, 1986, the Advisory Council on Historic Preservation (ACHP) revised its regulation on Protection of Historic Properties at 36 CFR part 800 (51 FR 31115). We made further changes to reflect changes in that regulation. This appendix is consistent with the requirement and the flexibility

contained in the ACHP regulation. We have discussed all significant changes to the proposed rule. This regulation only addresses the procedures to be followed by the Corps in implementing its regulatory program.

General Comments

Several commenters indicated that the proposed regulation did not comply with the National Historic Preservation Act (NHPA) and/or the 1979 regulation developed by the ACHP at 36 CFR part 800. These commenters indicated that sections 106 and 110(f) of the NHPA require identification of previously unrecorded properties and a regulatory/advisory role for the SHPO. The ACHP revised its regulations on September 2, 1986. This appendix has been modified in light of the revised ACHP regulations and fully implements those regulations and complies with the NHPA.

Implementation of the Corps Regulatory Program, in general and particularly in regard to historic preservation, is a complex process which requires coordination and consultation with other Federal and state agencies. These agencies function in an advisory or commenting role, as specified by law. This appendix C sets forth the Corps regulatory responsibilities under the authority of various national historic preservation statutes. Further, this appendix, as revised, provides a significant role for the SHPO. We believe the SHPO to be one of the foremost authorities for identifying historic properties as well as for assessing effects of proposed activities on historic properties. Accordingly, we will seek and carefully consider the SHPOs comments through public notices, coordination, and consultation throughout the permit process.

A few commenters indicated they felt it was necessary to do a survey to determine if a previously unrecorded historic property may be present. We agree and have revised this appendix to require the district engineer to survey for the presence of historic properties in the permit area, when appropriate.

Several commenters indicated that this regulation would shift the role of the SHPO to the ACHP. They believe that under existing manpower and budget limits the ACHP would not be able to respond adequately and thus that historic resources would suffer. We have clarified throughout this appendix that the SHPO has an important role in the Corps regulatory process. It has been our experience that most of our coordination occurs with the SHPO, while the ACHP becomes involved in only a relatively few cases. We firmly intend that this should continue and that

there should be no cause under this regulation for the ACHP to have to participate more actively in our permit process than it has in the past. However, the ACHP may participate as it deems appropriate.

Several commenters addressed the effect of this regulation on the reduction of excessive delays. Some commenters supported the proposal because they felt that the regulation would reduce delays, while others thought that it would create excessive delays. Most commenters supported the goal to reduce unnecessary delays. We believe this appendix will streamline the regulatory process, when appropriate, while maintaining the ACHP's statutory/advisory role in historic preservation, the goals of the NHPA, and the SHPO's important participation in the permit process.

A few commenters indicated that we should address section 110(g) of the NHPA, which provides that reasonable costs may be charged to a Federal licensee or permittee. It is our policy that applicants be responsible to perform any required mitigation as a condition to the Corps permit. When mitigation of historic properties, including preservation, is required, the permittee is required to perform (or contract for) and pay for all reasonable costs. Our policy for conditioning permits is contained at 33 CFR 325.4.

Paragraph 1. (Proposed 2) Definitions

Paragraphs 1.a. & 1.b. One commenter expressed concern about the omission of a detailed definition of "historic properties" and whether a means is necessary to correct the apparent impression that the Corps considers designated historic properties more important than undesignated historic properties. For clarification we added a definition of "historic property" which includes both designated and undesignated historic properties. It should be noted in this regard that the term "historic property" as used in this appendix is broader than that term as used in the NHPA. This is because our public interest decision requires us to consider impacts on *all* properties with historical importance regardless of the degree of their historical importance and whether or not they may be eligible for inclusion on the National Register.

Paragraph 1.c. One commenter requested that the definition of a certified local government contain a reference to 36 CFR part 61. For clarity we have included that reference.

Paragraph 1.d. (proposed paragraph 1.e.) There were no comments on this

definition and it is being adopted as proposed.

Paragraph 1.e. (proposed Paragraph 1.f.) One commenter expressed confusion regarding the use of the term "effect" and "affect" as used throughout the text. We have reviewed these two terms as used and believe they are used correctly. We added a sentence to clarify that we also consider indirect effects of the undertaking on historic properties. We also indicated that the criteria for effect and adverse effect is found in paragraph 15. of appendix C.

Paragraph 1.f. (proposed Paragraph 1.b.) There were no comments on this definition and it is being adopted essentially as proposed.

Paragraph 1.g. (proposed Paragraph 1.d.) One commenter stated that the definition of the term "permit area" does not give adequate consideration to indirect effects. The term "permit area" does not limit the consideration of indirect effects on historic properties. The Corps will consider both direct and indirect effects on historic properties. To further clarify the permit area we have added several examples that were included in the April 3, 1980, proposed regulation. We have also added an example to clarify the permit area for linear projects.

Paragraph 2. (Proposed 1. General) General Policy

Some commenters questioned the wording "directly affected" in paragraph 2.b. as it relates to NEPA. They indicated that NEPA considerations include secondary impacts. One commenter thought this paragraph would limit consideration to only "direct impacts" of a proposed activity under the NHPA. It was not the purpose of this paragraph to define the Corps responsibilities under NEPA which are included at 33 CFR part 325, appendix B, for the Corps regulatory program, nor was it to define the Corps' responsibilities under the NHPA. Rather, the purpose was to reference other Corps regulations which include additional responsibilities to consider impacts on historic properties. This paragraph was revised to clarify its intent.

We added two new paragraphs (2.e. and 2.f.) to clarify that the Corps will provide for maximum consideration of historic properties and maximum coordination within required time constraints. These paragraphs also provide that the Corps will strive to avoid or minimize effects on historic properties and adhere to the goals of the NHPA and other applicable laws dealing with historic properties.

Paragraph 3. Initial Review

Several commenters objected to the first sentence of this paragraph, pointing out that the latest published list of the National Register is never current and that there is not currently a consolidated list. They recommend that other sources, such as the SHPO, be consulted for knowledge of designated properties. We concur with these comments and have so revised this paragraph. One commenter suggested that the other appropriate sources of information be named. While we agree with the commenter that the SHPO, State Archeologist, local archeological and historical societies, universities, Indian tribes, and other organizations and individuals with historic expertise may be appropriate sources for information on historic properties, we do not believe it is necessary to list them. The appropriate sources may vary from case to case depending on the type of activity or location. Nevertheless, we recognize that our ability to communicate with these sources can be a problem. Therefore, we have added a sentence requiring district engineers to establish procedures for consulting these sources when appropriate. Because of the important role of the SHPO in the historic preservation process, the SHPO is especially identified in the added sentence.

One commenter indicated if an area has been disturbed to the point that archeological properties are not likely to exist or yield important information, it may be inappropriate to conduct any additional archeological or historic studies. This principle was included in the April 3, 1980, proposed regulations (45 FR 22113, paragraph 4.b.) and we have been operating under that provision since that time. This principle has been added to this appendix at paragraph 3.b.

One commenter stated that "early pre-application coordination and the preparation of adequate studies and project documentation" can expedite permit processing. This commenter recommended we provide a copy of the Interior's Standards and Guidelines for Archeology and Historic Preservation (48 FR 44716) to permit applicants. We agree that pre-application coordination and preparation of early studies can be very useful on some applications and have already provided for this 33 CFR 325.1(b). We have added a new paragraph 3.c. to provide that during preapplication consultation the district engineer will, in appropriate cases, inform the prospective applicant of the Department of the Interior's (DOI) Standards and Guidelines and the need

to consider effects on historic properties in accordance with this Appendix.

We have also added a new paragraph 3.d. that requires district engineers to discuss with applicants, at the earliest practical time, measures or alternatives to avoid or minimize effects on historic properties.

Paragraph 4. Public Notice

There were no comments on this paragraph. It is being adopted essentially, as proposed. However, we have added a new paragraph 4.c. which provides for district engineers to withhold information from the public notice relating to the location or character of sensitive historic resources when disclosure of such information may create a substantial risk of harm, theft or destruction to such resources or to the area or place where such resources are located. This provision is to comply with section 304 of the NHPA.

Paragraph 4.b.

Commenters on proposed paragraph 8 "Designation or Discovery of a Property During Permit Processing" discussed pre-application coordination and identification, surveys, and the issue of who should bear the costs associated with historic preservation. These comments have been addressed elsewhere. We determined that this paragraph was duplicative with other provisions of appendix C and the requirements of this paragraph could be adopted and clarified by revising paragraph 4.b. and eliminating this paragraph.

Paragraph 5. Investigations

Paragraph 6. Eligibility Determinations

Paragraph 7. Assessing Effects

These paragraphs, were not included in the May 4, 1984, proposed regulation. However, they were included in the April 3, 1980, proposed regulation. The process is basically the same as that proposed in 1980 and used by the Corps since then with a few exceptions. These exceptions deal with the Corps responsibility to seek eligibility determinations. The eligibility determination process and the assessment of effects is essentially the same as that contained in the ACHP regulations. Paragraph 6.c. also contains a requirement to wait a reasonable period of time when the SHPO is nominating an historic property to the National Register.

Paragraph 8. (Proposed 6): Consultation

A few commenters questioned the adequacy of the consultation provision.

Consultation can be very beneficial in resolving issues and considering alternatives to avoid or minimize adverse effects. Therefore, we fully intend to use consultation in the permit process when appropriate. We believe we have provided for adequate time to consult on the issues in most cases. However, the time may be longer depending on the complexity of the specific project. We moved this paragraph to be before the ACHP Review and Comment paragraph to clarify that consultation occurs before the formal ACHP comment process.

Paragraph 9. (Proposed 5) ACHP Review and Comment

Several commenters on the paragraph supported the proposed time periods as adequate and appropriate. The ACHP objected to the timeframes, indicating that the Corps could not define what is a "reasonable opportunity to comment" as provided in section 106 of the NHPA. Several commenters supported the time periods as adequate and appropriate. We revised this paragraph to be consistent with the September 2, 1986, ACHP regulations.

Some commenters felt that this paragraph would reduce the role of the applicant and the SHPO in the Corps decisionmaking process. This paragraph does not limit those important roles. The applicant's role in the permit process is defined in 33 CFR part 325. If the district engineer believes that mitigation or modification of the proposal may be necessary to protect historic properties, he will coordinate, as appropriate, with the applicant and the SHPO. We concur with those commenters who felt that the SHPO is the best qualified to provide information and comments on the existence of historic properties and any potential effects, and have included that principle throughout this appendix.

Paragraph 10. (Proposed 7) District Engineer Decision

One commenter supported the requirement that the district engineer would add permit conditions to reduce effects on historic properties, but suggested we reference the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation (48 FR 44716). We agree that the Secretary's standards should be considered and have so revised this paragraph. We have also clarified that the district engineer will add conditions to avoid effects on historic properties.

One commenter thought this paragraph would limit the district engineer's decision making authority and his discretion to resolve the problem. There is no intent to do this.

This paragraph is consistent with the district engineer's existing decision making authority and ability to resolve problems.

Paragraph 10.b. (Proposed 9) Recovery of Historic Properties

One commenter indicated this paragraph authorizes the district engineer to require mitigation. Another commenter questioned whose responsibility it is to implement and pay for data recovery, and questioned if the National Park Service is expected to implement the Corps mitigation plan. The Corps regulation for conditioning of permits and requiring mitigation is contained at 33 CFR 325.4.

Generally, the Corps will condition permits to avoid or mitigate by appropriate measures, including data recovery impacts on historic properties. However, in some cases it may be necessary to issue a permit although some resources may be lost. In such cases, this paragraph addresses the Secretary of the Interior's authority to provide for the protection of historic resources which may be lost if a permit is issued as provided in the Archeological and Historic Preservation Act (Pub. L. 99-291). This paragraph has been generally adopted as proposed. We added a requirement that the district engineer include permit conditions addressing historic properties in the notice to DOI. For clarity the proposed paragraph was moved to paragraph 10.b.

Paragraph 11. (Proposed 10) Historic Properties Discovered During Construction

One commenter questioned how the district engineer would determine whether or not a previously unrecorded historic property discovered during construction meets the National Register criteria. The district engineer will not determine if a previously unrecorded historic property meets the National Register criteria but only if it appears to meet the criteria. This will ensure that all those historic properties that would likely meet the criteria are considered.

Another commenter expressed concern about inequities and costs borne by the applicant should modification or revocation be sought by the district engineer and asked whether these extraordinary costs should not be paid by the public or the economic hardship minimized. The modification, suspension, and revocation procedures of 33 CFR 325.7 do take into account the equities of all parties as well as considerations of the public interest, which includes effects on historic properties.

The Department of the Interior (DOI) indicated that it has certain authorities and responsibilities concerning discovery of historic properties. DOI commented that this paragraph is not consistent with its policies and procedures and recommended that it be revised in consultation with its Departmental Consulting Archeologist. We have clarified this paragraph in accordance with the DOI comments. In addition we added a requirement for the district engineer to seek voluntary avoidance of construction activities that could affect the historic property pending a DOI recommendation.

Paragraph 12. (Proposed 11) General Permits Regional General Permits

There were no comments on this paragraph. It is being adopted as proposed with minor clarifications.

Paragraph 13. Nationwide Permits

We have added a new paragraph to address how the district engineer handles compliance with the nationwide permit condition on historic properties and requirements of 33 CFR part 330. Basically, the district engineer will use the criteria of effect and adverse effect and the notification, investigation, and eligibility determination procedures of this appendix to determine compliance with the nationwide permit condition. In appropriate cases, the district engineer will coordinate with the ACHP and the SHPO to determine compliance with the nationwide permit condition.

Paragraph 14. (Proposed 12) Emergency Procedures

The Department of the Interior indicated it has published proposed regulations (36 CFR part 79) on waiving Federal agency responsibilities under the NHPA and that the Corps consult with DOI. Under emergency procedures at 33 CFR 325.1(e)(4) we make every effort to consult with DOI on a case-by-case basis when considering emergency procedures to authorize a proposed project. Furthermore, we have added a requirement that the district engineer will comply with the provisions of appendix C to the extent time and the emergency situation allows.

Paragraph 15. (Proposed 13 - Consideration for Evaluating Effect) Criteria of Effect and Adverse Effect

One commenter thought that paragraph (a)(1) did not include indirect effects. This paragraph, as now written, does include indirect effects on historic properties.

One commenter pointed out that the definition of "effect" does not agree

with that in 36 CFR 800.3 (Now 36 CFR 800.9). Another commenter questioned the Corps' authority to require a permittee to take affirmative action to maintain or improve an historic site located on private property. Another commenter expressed concern that the proposed rule appeared too broad in the use of the word "property" and should be restricted to the historic property itself. We believe these comments were based on a misunderstanding of the purpose of this paragraph. The purpose of this paragraph is to aid district engineers in evaluating if an undertaking is reasonably expected to have an effect on a historic property, not to establish criteria which must be required to restrict, maintain, or improve historic properties. Decisions on conditioning of permits are made in accordance with paragraph 7. On September 2, 1986, the ACHP adopted the criteria of effect and adverse effect at 35 CFR 800.9., which was similar but not the same as that which we had proposed. Therefore, we are revising the proposed paragraph by adopting the language from 36 CFR 800.9.

Note 1. The Department of the Army has determined that the proposed regulation is not a major rule requiring the preparation of a regulatory impact analysis under E.O. 12291. I certify pursuant to section 605(b) of the Regulatory Flexibility Act of 1980, that this regulation will not have significant economic impact on a significant number of entities.

Note 2. The term "he" and its derivatives used in these regulations are generic and should be considered as applying to both male and female.

List of Subjects in 33 CFR Part 325

Administrative practice and procedure, Dams, Environmental protection, Intergovernmental relations, Navigation (water), Water pollution control, Waterways.

Dated: June 25, 1990.

Robert W. Page,

Assistant Secretary of the Army (Civil Works).

Accordingly, the Department of the Army is amending 33 CFR part 325 as follows:

PART 325—PROCESSING OF DEPARTMENT OF THE ARMY PERMITS

1. The authority citation for part 325 continues to read as follows:

Authority: 33 U.S.C. 401 *et seq.*, 33 U.S.C. 1344, 33 U.S.C. 1413.

2. Appendix C to part 325 is added to read as follows:

Appendix C—Procedures for the Protection of Historic Properties

1. Definitions
2. General Policy
3. Initial Review
4. Public Notice
5. Investigations
6. Eligibility Determinations
7. Assessing Effects
8. Consultation
9. ACHP Review and Comment
10. District Engineer Decision
11. Historic Properties Discovered During Construction
12. Regional General Permits
13. Nationwide General Permits
14. Emergency Procedures
15. Criteria of Effect and Adverse Effect

1. Definitions

a. *Designated historic property* is a historic property listed in the National Register of Historic Places (National Register) or which has been determined eligible for listing in the National Register pursuant to 36 CFR part 63. A historic property that, in both the opinion of the SHPO and the district engineer, appears to meet the criteria for inclusion in the National Register will be treated as a "designated historic property."

b. *Historic property* is a property which has historical importance to any person or group. This term includes the types of districts, sites, buildings, structures or objects eligible for inclusion, but not necessarily listed, on the National Register.

c. *Certified local government* is a local government certified in accordance with section 101(c)(1) of the NHPA (See 36 CFR part 61).

d. The term "criteria for inclusion in the National Register" refers to the criteria published by the Department of Interior at 36 CFR 60.4.

e. An "effect" on a "designated historic property" occurs when the undertaking may alter the characteristics of the property that qualified the property for inclusion in the National Register. Consideration of effects on "designated historic properties" includes indirect effects of the undertaking. The criteria for effect and adverse effect are described in Paragraph 15 of this appendix.

f. The term "undertaking" as used in this appendix means the work, structure or discharge that requires a Department of the Army permit pursuant to the Corps regulations at 33 CFR 320-334.

g. *Permit area*.

(1) The term "permit area" as used in this appendix means those areas comprising the waters of the United States that will be directly affected by the proposed work or structures and uplands directly affected as a result of authorizing the work or structures. The following three tests must all be satisfied for an activity undertaken outside the waters of the United States to be included within the "permit area":

(i) Such activity would not occur but for the authorization of the work or structures within the waters of the United States;

(ii) Such activity must be integrally related to the work or structures to be authorized within waters of the United States. Or, conversely, the work or structures to be

authorized must be essential to the completeness of the overall project or program; and

(iii) Such activity must be directly associated (first order impact) with the work or structures to be authorized.

(2) For example, consider an application for a permit to construct a pier and dredge an access channel so that an industry may be established and operated on an upland area.

(i) Assume that the industry requires the access channel and the pier and that without such channel and pier the project would not be feasible. Clearly then, the industrial site, even though upland, would be within the "permit area." It would not be established "but for" the access channel and pier; it also is integrally related to the work and structure to be authorized; and finally it is directly associated with the work and structure to be authorized. Similarly, all three tests are satisfied for the dredged material disposal site and it too is in the "permit area" even if located on uplands.

(ii) Consider further that the industry, if established, would cause local agencies to extend water and sewer lines to service the area of the industrial site. Assume that the extension would not itself involve the waters of the United States and is not solely the result of the industrial facility. The extensions would not be within the "permit area" because they would not be directly associated with the work or structure to be authorized.

(iii) Now consider that the industry, if established, would require increased housing for its employees, but that a private developer would develop the housing. Again, even if the housing would not be developed but for the authorized work and structure, the housing would not be within the permit area because it would not be directly associated with or integrally related to the work or structure to be authorized.

(3) Consider a different example. This time an industry will be established that requires no access to the navigable waters for its operation. The plans for the facility, however, call for a recreational pier with an access channel. The pier and channel will be used for the company-owned yacht and employee recreation. In the example, the industrial site is not included within the permit area. Only areas of dredging, dredged material disposal, and pier construction would be within the permit area.

(4) Lastly, consider a linear crossing of the waters of the United States; for example, by a transmission line, pipeline, or highway.

(i) Such projects almost always can be undertaken without Corps authorization, if they are designed to avoid affecting the waters of the United States. Corps authorization is sought because it is less expensive or more convenient for the applicant to do so than to avoid affecting the waters of the United States. Thus the "but for" test is not met by the entire project right-of-way. The "same undertaking" and "integral relationship" tests are met, but this is not sufficient to make the whole right-of-way part of the permit area. Typically, however, some portion of the right-of-way, approaching the crossing, would not occur in

its given configuration "but for" the authorized activity. This portion of the right-of-way, whose location is determined by the location of the crossing, meets all three tests and hence is part of the permit area.

(ii) Accordingly, in the case of the linear crossing, the permit area shall extend in either direction from the crossing to that point at which alternative alignments leading to reasonable alternative locations for the crossing can be considered and evaluated. Such a point may often coincide with the physical feature of the waterbody to be crossed, for example, a bluff, the limit of the flood plain, a vegetational change, etc., or with a jurisdictional feature associated with the waterbody, for example, a zoning change, easement limit, etc., although such features should not be controlling in selecting the limits of the permit area.

2. General Policy

This appendix establishes the procedures to be followed by the U.S. Army Corps of Engineers (Corps) to fulfill the requirements set forth in the National Historic Preservation Act (NHPA), other applicable historic preservation laws, and Presidential directives as they relate to the regulatory program of the Corps of Engineers (33 CFR parts 320-334).

a. The district engineer will take into account the effects, if any, of proposed undertakings on historic properties both within and beyond the waters of the U.S. Pursuant to section 110(f) of the NHPA, the district engineer, where the undertaking that is the subject of a permit action may directly and adversely affect any National Historic Landmark, shall, to the maximum extent possible, condition any issued permit as may be necessary to minimize harm to such landmark.

b. In addition to the requirements of the NHPA, all historic properties are subject to consideration under the National Environmental Policy Act, (33 CFR part 325, appendix B), and the Corps' public interest review requirements contained in 33 CFR 320.4. Therefore, historic properties will be included as a factor in the district engineer's decision on a permit application.

c. In processing a permit application, the district engineer will generally accept for Federal or Federally assisted projects the Federal agency's or Federal lead agency's compliance with the requirements of the NHPA.

d. If a permit application requires the preparation of an Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act, the draft EIS will contain the information required by paragraph 9.a. below. Furthermore, the SHPO and the ACHP will be given the opportunity to participate in the scoping process and to comment on the Draft and Final EIS.

e. During pre-application consultations with a prospective applicant the district engineer will encourage the consideration of historic properties at the earliest practical time in the planning process.

f. This appendix is organized to follow the Corps standard permit process and to indicate how historic property considerations are to be addressed during the processing and evaluating of permit applications. The

procedures of this Appendix are not intended to diminish the full consideration of historic properties in the Corps regulatory program. Rather, this appendix is intended to provide for the maximum consideration of historic properties within the time and jurisdictional constraints of the Corps regulatory program. The Corps will make every effort to provide information on historic properties and the effects of proposed undertakings on them to the public by the public notice within the time constraints required by the Clean Water Act. Within the time constraints of applicable laws, executive orders, and regulations, the Corps will provide the maximum coordination and comment opportunities to interested parties especially the SHPO and ACHP. The Corps will discuss with and encourage the applicant to avoid or minimize effects on historic properties. In reaching its decisions on permits, the Corps will adhere to the goals of the NHPA and other applicable laws dealing with historic properties.

3. Initial Review

a. Upon receipt of a completed permit application, the district engineer will consult district files and records, the latest published version(s) of the National Register, lists of properties determined eligible, and other appropriate sources of information to determine if there are any designated historic properties which may be affected by the proposed undertaking. The district engineer will also consult with other appropriate sources of information for knowledge of undesignated historic properties which may be affected by the proposed undertaking. The district engineer will establish procedures (e.g., telephone calls) to obtain supplemental information from the SHPO and other appropriate sources. Such procedures shall be accomplished within the time limits specified in this appendix and 33 CFR part 325.

b. In certain instances, the nature, scope, and magnitude of the work, and/or structures to be permitted may be such that there is little likelihood that a historic property exists or may be affected. Where the district engineer determines that such a situation exists, he will include a statement to this effect in the public notice. Three such situations are:

(1) Areas that have been extensively modified by previous work. In such areas, historic properties that may have at one time existed within the permit area may be presumed to have been lost unless specific information indicates the presence of such a property (e.g., a shipwreck).

(2) Areas which have been created in modern times. Some recently created areas, such as dredged material disposal islands, have had no human habitation. In such cases, it may be presumed that there is no potential for the existence of historic properties unless specific information indicates the presence of such a property.

(3) Certain types of work or structures that are of such limited nature and scope that there is little likelihood of impinging upon a historic property even if such properties were to be present within the affected area.

c. If, when using the pre-application procedures of 33 CFR 325.1(b), the district

engineer believes that a designated historic property may be affected, he will inform the prospective applicant for consideration during project planning of the potential applicability of the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation (48 FR 44716). The district engineer will also inform the prospective applicant that the Corps will consider any effects on historic properties in accordance with this appendix.

d. At the earliest practical time the district engineer will discuss with the applicant measures or alternatives to avoid or minimize effects on historic properties.

4. Public Notice

a. Except as specified in subparagraph 4.c., the district engineer's current knowledge of the presence or absence of historic properties and the effects of the undertaking upon these properties will be included in the public notice. The public notice will be sent to the SHPO, the regional office of the National Park Service (NPS), certified local governments (see paragraph 1.c.) and Indian tribes, and interested citizens. If there are designated historic properties which reasonably may be affected by the undertaking or if there are undesignated historic properties within the affected area which the district engineer reasonably expects to be affected by the undertaking and which he believes meet the criteria for inclusion in the National Register, the public notice will also be sent to the ACHP.

b. During permit evaluation for newly designated historic properties or undesignated historic properties which reasonably may be affected by the undertaking and which have been newly identified through the public interest review process, the district engineer will immediately inform the applicant, the SHPO, the appropriate certified local government and the ACHP of the district engineer's current knowledge of the effects of the undertaking upon these properties. Commencing from the date of the district engineer's letter, these entities will be given 30 days to submit their comments.

c. Locational and sensitive information related to archeological sites is excluded from the Freedom of Information Act (Section 304 of the NHPA and Section 9 of ARPA). If the district engineer or the Secretary of the Interior determine that the disclosure of information to the public relating to the location or character of sensitive historic resources may create a substantial risk of harm, theft, or destruction to such resources or to the area or place where such resources are located, then the district engineer will not include such information in the public notice nor otherwise make it available to the public. Therefore, the district engineer will furnish such information to the ACHP and the SHPO by separate notice.

5. Investigations

a. When initial review, addition submissions by the applicant, or response to the public notice indicates the existence of a potentially eligible property, the district engineer shall examine the pertinent evidence to determine the need for further

investigation. The evidence must set forth specific reasons for the need to further investigate within the permit area and may consist of:

(1) Specific information concerning properties which may be eligible for inclusion in the National Register and which are known to exist in the vicinity of the project; and

(2) Specific information concerning known sensitive areas which are likely to yield resources eligible for inclusion in the National Register, particularly where such sensitive area determinations are based upon data collected from other, similar areas within the general vicinity.

b. Where the scope and type of work proposed by the applicant or the evidence presented leads the district engineer to conclude that the chance of disturbance by the undertaking to any potentially eligible historic property is too remote to justify further investigation, he shall so advise the reporting party and the SHPO.

c. If the district engineer's review indicates that an investigation for the presence of potentially eligible historic properties on the upland locations of the permit area (see paragraph 1.g.) is justified, the district engineer will conduct or cause to be conducted such an investigation. Additionally, if the notification indicates that a potentially eligible historic property may exist within waters of the U.S., the district engineer will conduct or cause to be conducted an investigation to determine whether this property may be eligible for inclusion in the National Register. Comments or information of a general nature will not be considered as sufficient evidence to warrant an investigation.

d. In addition to any investigations conducted in accordance with paragraph 6.a. above, the district engineer may conduct or cause to be conducted additional investigations which the district engineer determines are essential to reach the public interest decision. As part of any site visit, Corps personnel will examine the permit area for the presence of potentially eligible historic properties. The Corps will notify the SHPO, if any evidence is found which indicates the presence of potentially eligible historic properties.

e. As determined by the district engineer, investigations may consist of any of the following: further consultations with the SHPO, the State Archeologist, local governments, Indian tribes, local historical and archeological societies, university archeologists, and others with knowledge and expertise in the identification of historical, archeological, cultural and scientific resources; field examinations; and archeological testing. In most cases, the district engineer will require, in accordance with 33 CFR 325.1(e), that the applicant conduct the investigation at his expense and usually by third party contract.

f. The Corps of Engineers' responsibilities to seek eligibility determinations for potentially eligible historic properties is limited to resources located within waters of the U.S. that are directly affected by the undertaking. The Corps responsibilities to identify potentially eligible historic properties

is limited to resources located within the permit area that are directly affected by related upland activities. The Corps is not responsible for identifying or assessing potentially eligible historic properties outside the permit area, but will consider the effects of undertakings on any known historic properties that may occur outside the permit area.

6. Eligibility determinations

a. For a historic property within waters of the U.S. that will be directly affected by the undertaking the district engineer will, for the purposes of this Appendix and compliance with the NHPA:

(1) Treat the historic property as a "designated historic property," if both the SHPO and the district engineer agree that it is eligible for inclusion in the National Register; or

(2) Treat the historic property as not eligible, if both the SHPO and the district engineer agree that it is not eligible for inclusion in the National Register; or

(3) Request a determination of eligibility from the Keeper of the National Register in accordance with applicable National Park Service regulations and notify the applicant, if the SHPO and the district engineer disagree or the ACHP or the Secretary of the Interior so request. If the Keeper of the National Register determines that the resources are not eligible for listing in the National Register or fails to respond within 45 days of receipt of the request, the district engineer may proceed to conclude his action on the permit application.

b. For a historic property outside of waters of the U.S. that will be directly affected by the undertaking the district engineer will, for the purposes of this appendix and compliance with the NHPA:

(1) Treat the historic property as a "designated historic property," if both the SHPO and the district engineer agree that it is eligible for inclusion in the National Register; or

(2) Treat the historic property as not eligible, if both the SHPO and the district engineer agree that it is not eligible for inclusion in the National Register; or

(3) Treat the historic property as not eligible unless the Keeper of the National Register determines it is eligible for or lists it on the National Register. (See paragraph 6.c. below.)

c. If the district engineer and the SHPO do not agree pursuant to paragraph 6.b.(1) and the SHPO notifies the district engineer that it is nominating a potentially eligible historic property for the National Register that may be affected by the undertaking, the district engineer will wait a reasonable period of time for that determination to be made before concluding his action on the permit. Such a reasonable period of time would normally be 30 days for the SHPO to nominate the historic property plus 45 days for the Keeper of the National Register to make such determination. The district engineer will encourage the applicant to cooperate with the SHPO in obtaining the information necessary to nominate the historic property.

7. Assessing Effects

a. *Applying the Criteria of Effect and Adverse Effect.* During the public notice comment period or within 30 days after the determination or discovery of a designated history property the district engineer will coordinate with the SHPO and determine if there is an effect and if so, assess the effect. (See Paragraph 15.)

b. *No Effect.* If the SHPO concurs with the district engineer's determination of no effect or fails to respond within 15 days of the district engineer's notice to the SHPO of a no effect determination, then the district engineer may proceed with the final decision.

c. *No Adverse Effect.* If the district engineer, based on his coordination with the SHPO (see paragraph 7.a.), determines that an effect is not adverse, the district engineer will notify the ACHP and request the comments of the ACHP. The district engineer's notice will include a description of both the project and the designated historic property; both the district engineer's and the SHPO's views, as well as any views of affected local governments, Indian tribes, Federal agencies, and the public, on the no adverse effect determination; and a description of the efforts to identify historic properties and solicit the views of those above. The district engineer may conclude the permit decision if the ACHP does not object to the district engineer's determination or if the district engineer accepts any conditions requested by the ACHP for a no adverse effect determination, or the ACHP fails to respond within 30 days of the district engineer's notice to the ACHP. If the ACHP objects or the district engineer does not accept the conditions proposed by the ACHP, then the effect shall be considered as adverse.

d. *Adverse Effect.* If an adverse effect on designated historic properties is found, the district engineer will notify the ACHP and coordinate with the SHPO to seek ways to avoid or reduce effects on designated historic properties. Either the district engineer or the SHPO may request the ACHP to participate. At its discretion, the ACHP may participate without such a request. The district engineer, the SHPO or the ACHP may state that further coordination will not be productive. The district engineer shall then request the ACHP's comments in accordance with paragraph 9.

8. Consultation

At any time during permit processing, the district engineer may consult with the involved parties to discuss and consider possible alternatives or measures to avoid or minimize the adverse effects of a proposed activity. The district engineer will terminate any consultation immediately upon determining that further consultation is not productive and will immediately notify the consulting parties. If the consultation results in a mutual agreement among the SHPO, ACHP, applicant and the district engineer regarding the treatment of designated historic properties, then the district engineer may formalize that agreement either through permit conditioning or by signing a Memorandum of Agreement (MOA) with

these parties. Such MOA will constitute the comments of the ACHP and the SHPO, and the district engineer may proceed with the permit decision. Consultation shall not continue beyond the comment period provided in paragraph 9.b.

9. ACHP Review and Comment

a. If: (i) The district engineer determines that coordination with the SHPO is unproductive; or (ii) the ACHP, within the appropriate comment period, requests additional information in order to provide its comments; or (iii) the ACHP objects to any agreed resolution of impacts on designated historic properties; the district engineer, normally within 30 days, shall provide the ACHP with:

(1) A project description, including, as appropriate, photographs, maps, drawings, and specifications (such as, dimensions of structures, fills, or excavations; types of materials and quantity of material);

(2) A listing and description of the designated historic properties that will be affected, including the reports from any surveys or investigations;

(3) A description of the anticipated adverse effects of the undertaking on the designated historic properties and of the proposed mitigation measures and alternatives considered, if any; and

(4) The views of any commenting parties regarding designated historic properties.

In developing this information, the district engineer may coordinate with the applicant, the SHPO, and any appropriate Indian tribe or certified local government.

Copies of the above information also should be forwarded to the applicant, the SHPO, and any appropriate Indian tribe or certified local government. The district engineer will not delay his decision but will consider any comments these parties may wish to provide.

b. The district engineer will provide the ACHP 60 days from the date of the district engineer's letter forwarding the information in paragraph 9.a., to provide its comments. If the ACHP does not comment by the end of this comment period, the district engineer will complete processing of the permit application. When the permit decision is otherwise delayed as provided in 33 CFR 325.2(d) (3) & (4), the district engineer will provide additional time for the ACHP to comment consistent with, but not extending beyond that delay.

10. District Engineer Decision

a. In making the public interest decision on a permit application, in accordance with 33 CFR 320.4, the district engineer shall weigh all factors, including the effects of the undertaking on historic properties and any comments of the ACHP and the SHPO, and any views of other interested parties. The district engineer will add permit conditions to avoid or reduce effects on historic properties which he determines are necessary in accordance with 33 CFR 325.4. In reaching his determination, the district engineer will consider the Secretary of the Interior's

Standards and Guidelines for Archeology and Historic Preservation (48 FR 44716).

b. If the district engineer concludes that permitting the activity would result in the irrevocable loss of important scientific, prehistoric, historical, or archeological data, the district engineer, in accordance with the Archeological and Historic Preservation Act of 1974, will advise the Secretary of the Interior (by notifying the National Park Service (NPS)) of the extent to which the data may be lost if the undertaking is permitted, any plans to mitigate such loss that will be implemented, and the permit conditions that will be included to ensure that any required mitigation occurs.

11. Historic Properties Discovered During Construction

After the permit has been issued, if the district engineer finds or is notified that the permit area contains a previously unknown potentially eligible historic property which he reasonably expects will be affected by the undertaking, he shall immediately inform the Department of the Interior Departmental Consulting Archeologist and the regional office of the NPS of the current knowledge of the potentially eligible historic property and the expected effects, if any, of the undertaking on that property. The district engineer will seek voluntary avoidance of construction activities that could affect the historic property pending a recommendation from the National Park Service pursuant to the Archeological and Historic Preservation Act of 1974. Based on the circumstances of the discovery, equity to all parties, and considerations of the public interest, the district engineer may modify, suspend or revoke a permit in accordance with 33 CFR 325.7.

12. Regional General Permits

Potential impacts on historic properties will be considered in development and evaluation of general permits. However, many of the specific procedures contained in this appendix are not normally applicable to general permits. In developing general permits, the district engineer will seek the views of the SHPO and, the ACHP and other organizations and/or individuals with expertise or interest in historic properties. Where designated historic properties are reasonably likely to be affected, general permits shall be conditioned to protect such properties or to limit the applicability of the permit coverage.

13. Nationwide General Permit

a. The criteria at paragraph 15 of this Appendix will be used for determining compliance with the nationwide permit condition at 33 CFR 330.5(b)(9) regarding the effect on designated historic properties. When making this determination the district engineer may consult with the SHPO, the ACHP or other interested parties.

b. If the district engineer is notified of a potentially eligible historic property in accordance with nationwide permit regulations and conditions, he will

immediately notify the SHPO. If the district engineer believes that the potentially eligible historic property meets the criteria for inclusion in the National Register and that it may be affected by the proposed undertaking then he may suspend authorization of the nationwide permit until he provides the ACHP and the SHPO the opportunity to comment in accordance with the provisions of this Appendix. Once these provisions have been satisfied, the district engineer may notify the general permittee that the activity is authorized including any special activity specific conditions identified or that an individual permit is required.

14. Emergency Procedures

The procedures for processing permits in emergency situations are described at 33 CFR 325.2(e)(4). In an emergency situation the district engineer will make every reasonable effort to receive comments from the SHPO and the ACHP, when the proposed undertaking can reasonably be expected to affect a potentially eligible or designated historic property and will comply with the provisions of this Appendix to the extent time and the emergency situation allows.

15. Criteria of Effect and Adverse Effect

(a) An undertaking has an effect on a designated historic property when the undertaking may alter characteristics of the property that qualified the property for inclusion in the National Register. For the purpose of determining effect, alteration to features of a property's location, setting, or use may be relevant, and depending on a property's important characteristics, should be considered.

(b) An undertaking is considered to have an adverse effect when the effect on a designated historic property may diminish the integrity of the property's location, design, setting, materials, workmanship, feeling, or association. Adverse effects on designated historic properties include, but are not limited to:

(1) Physical destruction, damage, or alteration of all or part of the property;

(2) Isolation of the property from or alteration of the character of the property's setting when that character contributes to the property's qualification for the National Register;

(3) Introduction of visual, audible, or atmospheric elements that are out of character with the property or alter its setting;

(4) Neglect of a property resulting in its deterioration or destruction; and

(5) Transfer, lease, or sale of the property.

(c) Effects of an undertaking that would otherwise be found to be adverse may be considered as being not adverse for the purpose of this appendix:

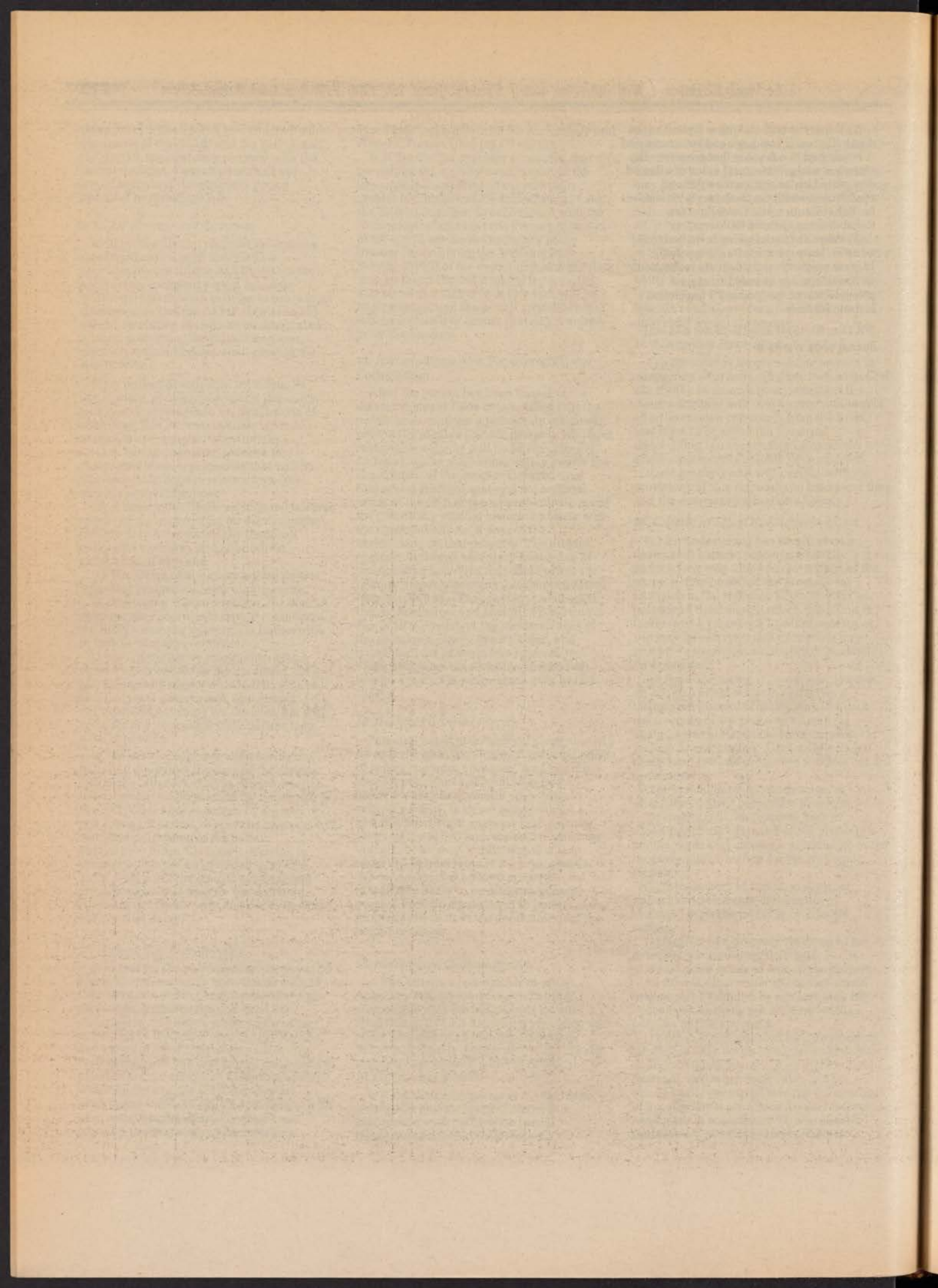
(1) When the designated historic property is of value only for its potential contribution to archeological, historical, or architectural research, and when such value can be substantially preserved through the conduct of appropriate research, and such research is conducted in accordance with applicable professional standards and guidelines;

(2) When the undertaking is limited to the rehabilitation of buildings and structures and is conducted in a manner that preserves the historical and architectural value of affected designated historic properties through conformance with the Secretary's "Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings", or

(3) When the undertaking is limited to the transfer, lease, or sale of a designated historic property, and adequate restrictions or conditions are included to ensure preservation of the property's important historic features.

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FRIDAY JUNE 29, 1990

Friday
June 29, 1990

Part VII

Department of Health and Human Services

Health Resources and Services Administration

Primary Medical Care Health Manpower Shortage Areas (HMSAs); List of Designations and Withdrawals; Notice

Department of Health and Human Services

Public Health Services

List of Designated Primary Medical Care Health Manpower Shortage Areas (HMSAs); List of Withdrawals From Primary Medical Care HMSA Designation

AGENCY: Health Resources and Services Administration, HHS

ACTION: Notice

SUMMARY: This notice provides two lists. The first is a list of all areas, population groups, or facilities designated as primary medical care health manpower shortage areas (HMSAs) as of December 31, 1989. Second is a list of previously-designated primary medical care HMSAs that have been found to no longer meet the HMSA criteria and are therefore being withdrawn from the HMSA list. HMSAs are designated or withdrawn by the Secretary of Health and Human Services (HHS) under the authority of section 332 of the Public Health Service Act.

FOR FURTHER INFORMATION CONTACT: Richard C. Lee, Director, Office of Shortage Designation, Bureau of Health Care Delivery and Assistance, Health Resources and Services Administration, Parklawn Building, Room 4-101, 5600 Fishers Lane, Rockville, Maryland 20857 (301-443-6932).

SUPPLEMENTARY INFORMATION:

1. Background

Section 332 of the Public Health Service Act provides that the Secretary of Health and Human Services shall designate health manpower shortage areas based on criteria established by regulation. Health manpower shortage areas (HMSAs) are defined in section 332 to include (1) urban and rural geographic areas, (2) population groups, and (3) facilities with shortages of health manpower. Section 332 further requires that the Secretary publish a list of the designated geographic areas, population groups, and facilities. The list of areas is to be reviewed at least annually and revised as necessary. The Health Resources and Services Administration's Bureau of Health Care Delivery and Assistance has the responsibility for designating and updating these HMSAs.

Public or nonprofit entities in (or with a demonstrated interest in) these HMSAs are eligible to apply for assignment of National Health Service Corps (NHSC) personnel to provide health services in, or to, the areas or populations involved. These HMSAs are also eligible obligated-service areas for

certain Public Health Service scholarship, loan repayment, and traineeship programs; entities located therein are eligible to apply for (or receive preference for) certain Public Health Service grant programs; physicians delivering services in non-metropolitan HMSAs may be eligible for increased Medicare reimbursement; and nurse practitioners and physician's assistants serving Rural Health Clinics in HMSAs are eligible for Medicaid or Medicare reimbursement.

2. Development of the Designation and Withdrawal Lists

Criteria for designating HMSAs were published by the Department of Health and Human Services as Final regulations (42 CFR Part 5) in the *Federal Register* on November 17, 1980. Criteria are defined for each of seven health manpower types (primary medical care, dental, psychiatric, vision care, podiatric, pharmacy, and veterinary manpower). However, most currently-funded Public Health Service programs involve primary medical care, dental, or psychiatric HMSAs.

The first lists of HMSAs (developed under Interim-Final criteria) were published in 1978. A different list was included for each of the seven manpower types mentioned above. Since then, updated lists have been published approximately annually to reflect those changes which occur as a result of the shortage area designation process. Individual requests for designation or withdrawal of particular areas, population groups, or facilities as HMSAs are continuously received and reviewed. The review process includes routine submission of such requests to the appropriate State Health Planning and Development Agency (SHPDA) and Health System Agency (HSA), if any, or to a unit of the State Health Department where no SHPDA or HSA is active, and to the Governor and other interested organizations or individuals for their comments and recommendations. Requests regarding primary medical care or psychiatric manpower are also provided to the appropriate State medical society for comment, while requests regarding dental manpower are provided to the appropriate State dental society for comment.

Annually, data listings are provided to all SHPDAs, HSAs, State medical societies and others showing the latest available data contained in the HMSA data base for each county and designated HMSA within their State, together with a request for their review and update of this data, and their recommendations regarding possible additions to, continuations or revisions

of, and/or withdrawals from the HMSA list.

The Office of Shortage Designation within the Bureau of Health Care Delivery and Assistance reviews each HMSA designation or withdrawal request, together with any recommendations received on individual requests or on the annual review data listings. The results of these reviews are provided by letter to the agency or individual requesting action or providing data with copies to other interested organizations and individuals. These letters constitute the official notice of designation as a HMSA, rejection of recommendations for such a designation, or revision of a designation, and/or constitute advance notice of pending withdrawals from the list. Designations (or revisions of designations) are effective as of the date of the letter making (or revising) the designation; proposed withdrawals become effective when published in the *Federal Register*.

This notice contains two lists relevant to primary medical care HMSA designation. The first list below ("List of Designated Primary Medical Care HMSAs") includes all those areas, population groups, and facilities which were designated as primary medical care HMSAs as of December 31, 1989. This list incorporates the most recent annual review of designated HMSAs and supersedes the Primary Medical Care HMSA list which appeared in the *Federal Register* on November 17, 1987. The list of designated HMSAs below includes the current definitions for each designated service area, excluding any portions withdrawn since the last such listing was published.

The second list below ("List of Withdrawals from Primary Medical Care HMSA Designation") includes those areas, population groups, and facilities which had previously been designated as primary medical care HMSAs but were found, between September 1, 1987, and December 31, 1989, to no longer meet the HMSA criteria and therefore were indicated by letter as proposed for withdrawal from the HMSA list. (This withdrawal list does not include any former HMSAs already listed in previous *Federal Register* lists of withdrawals.)

Some service area definitions may have been modified in such a way that portions of some areas have effectively been withdrawn. The list of withdrawals below does not include such technical withdrawals, but rather consists of those whole counties, service areas, population groups, and facilities that have been completely withdrawn.

3. Format of Lists

a. List of Designated Primary Medical Care HMSAs

The list of primary medical care HMSAs is arranged by State. Within each State, the list is first presented by county. If only a portion (or portions) of a county has been designated, or if the county is part of a larger designated service area, or if a population group residing in the county or a facility located in the county has been designated, the name of the service area, population group, or facility involved is listed under the county name.

Following the county listing, a list of any designated service areas is presented identifying their component parts in terms of counties, towns, townships, census tracts (CTs), minor civil divisions (MCDs), census county divisions (CCDs), enumeration districts (EDs), magisterial districts, or other definable geographic divisions recognized by the Bureau of the Census. Those counties (or parts of counties) included in service areas which are classified as non-metropolitan are indicated by an asterisk (*).

Following the service area listing, a list of any designated population groups is presented which identifies each such group and the geographic area wherein it resides. Following the population group listing, a list by name and location of any separately-designated facilities (including prisons, correctional institutions, health centers, or hospitals) is presented.

In addition to the specific listings included in this notice, all Indian tribes which meet the definition of such tribes referenced in Section 4(d) of Public Law 94-437, the Indian Health Care Improvement Act of 1976, are automatically designated as population groups with primary medical care and dental manpower shortages. Such Indian tribes are automatically considered assigned to degree-of-shortage group 4 (unless otherwise indicated in this listing based on specific data provided for this purpose).

In the listings below, beside the name of each designated area, population group, or facility, its calculated "degree-of-shortage" group is indicated, corresponding to the criteria for these groupings contained in the regulations. (Group 1 represents areas with the highest calculated degree of shortage, Group 2 with next highest degree of shortage, etc.) These groups are defined in terms of population-to-practitioner ratios and the presence or absence of other indicators of high need, for use in determining relative priorities for placement of NHSC personnel.

However, the NHSC placement process also includes other factors and considerations relating to need, demand, and relative attractiveness of the various designated HMSAs.

At the time of this publication, physicians delivering Medicare-reimbursable services in designated geographic HMSAs which are listed in degree-of-shortage groups 1 or 2 and are in non-metropolitan areas (i.e., those areas identified with an asterisk) are eligible for higher Medicare reimbursement levels.

b. List of Withdrawals from Primary Medical Care HMSA Designation

The list of withdrawals from primary medical care HMSA designation is also arranged by State. Within each State, whole counties being withdrawn are presented first. Following the county listing, a list of those service areas, population groups, and facilities being withdrawn is presented, identifying their component parts in terms of counties and subparts of counties.

4. Future Updates of List of Designated HMSAs

The list of primary medical care HMSAs below consists of all those which were designated as of December 31, 1989. It should be noted that additional HMSAs have been designated by letter since December 31, 1989, and the appropriate agencies and individuals notified of these actions by letter.

Any designated HMSA listed below is subject to withdrawal from designation if new information received and confirmed by the Office of Shortage Designation indicates that the situation in the area involved has changed since its designation or that erroneous or incomplete data were used in making the original designation. Interested parties will be notified by mail of any proposed withdrawal, which will become effective only after interested parties in the area affected have been afforded the opportunity to submit additional information in support of its continued or revised designation.

For further information on the HMSA designations and withdrawals listed below, or to request additional designations or withdrawals or reinstatement of a withdrawn HMSA, please contact Richard C. Lee, Director, Office of Shortage Designation, Bureau of Health Care Delivery and Assistance, at the address listed above. All requests for designations or withdrawals should be based on the criteria in the regulations as published on November 17, 1980, plus amendments made for correctional facilities on March 2, 1989,

and any future amendments made after the date of this notice.

Dated: UNKNOWN, 1990.

Robert G. Harmon,
Administrator.

LIST OF DESIGNATED PRIMARY MEDICAL CARE HEALTH MANPOWER SHORTAGE AREAS

PRIMARY CARE: Alabama

County Listing

County Name	Degree of shortage group
Autauga.....	3
*Barbour.....	
Service Area: Clayton.....	1
*Bibb.....	2
Bloount.....	2
*Butler.....	3
*Chambers.....	
Service Area: La Fayette.....	1
*Cherokee.....	3
*Chilton.....	3
*Clarke.....	
Service Area: Coffeeville.....	1
Service Area: Grove Hill/Fulton.....	2
*Cleburne.....	2
Colbert.....	
Service Area: Cherokee.....	3
*Conecuh.....	1
*Coosa.....	1
*Covington.....	
Service Area: Florala.....	2
*Crenshaw.....	1
*Escambia.....	
Service Area: Flomaton.....	3
Etowah.....	
Population Group: Pov. Pop.—Gadsden.....	1
*Geneva.....	2
*Hale.....	4
*Henry.....	4
Houston.....	
Service Area: Gordon.....	1
*Jackson.....	
Population Group: Med. Ind. Pop.—Jackson Co.....	4
Jefferson.....	
Population Group: Pov. Pop.—Central Birmingham.....	3
*Lamar.....	3
Lauderdale.....	
Service Area: Waterloo.....	3
Service Area: West Limestone.....	2
*Lawrence.....	3
*Limestone.....	
Service Area: West Limestone.....	2
*Lowndes.....	1
*Macon.....	3
Madison.....	
Population Group: Pov Pop.—Madison Co.....	4
Mobile.....	
Service Area: Bayou La Batre.....	2
Population Group: Pov. Pop.—E. Mobile.....	1
Facility: Univ S. Al. Childs Md. Ctr.....	1
Montgomery.....	
Population Group: Pov Pop.—Montgomery Co.....	3
*Morgan.....	
Population Group: Pov Pop.—Morgan Co.....	3
*Perry.....	1
*Randolph.....	4

PRIMARY CARE: Alabama—Continued*County Listing*

County Name	Degree of shortage group
Russell	
Service Area: Cottonton/Hurtsboro	1
Shelby	2
St Clair	2
*Tallapoosa	
Service Area: Camp Hill	2
Tuscaloosa	
Service Area: West Tuscaloosa	1
*Washington	1
*Wilcox	1
*Winston	3

PRIMARY CARE: Alabama*Service Area Listing*

Service Area Name	Degree of shortage group
Bayou La Batre	2
County—Mobile	
Parts:	
C.T. 66-67	
C.T. 72.02	
C.T. 73	
Camp Hill	2
County—Tallapoosa	
Parts:	
*Camp Hill CCD	
*Dadeville CCD	
*Tallapoosa CCD	
Cherokee	3
County—Colbert	
Parts:	
Cherokee CCD (C.T. 210)	
Clayton	1
County—Barbour	
Parts:	
*Clayton CCD	
*Clio CCD	
*Louisville CCD	
Coffeeville	1
County—Clarke	
Parts:	
*Coffeeville CCD	
Cottonton/Hurtsboro	1
County—Russell	
Parts:	
Cottonton-Seale CCD	
Hurtsboro CCD	
Flomaton	3
County—Escambia	
Parts:	
Flomaton CCD	
Floral	2
County—Covington	
Parts:	
Floral CCD	
Gordon	1
County—Houston	
Parts:	
Gordon CCD	
Grove Hill/Fulton	2
County—Clarke	
Parts:	
Fulton CCD	
Grove Hill CCD	
La Fayette	1
County—Chambers	
Parts:	
*Five Points CCD	
*Lafayette CCD	

PRIMARY CARE: Alabama—Continued*Service Area Listing*

Service Area Name	Degree of shortage group
*Milltown CCD	
Waterloo	3
County—Lauderdale	
Parts:	
Waterloo CCD	
West Limestone	2
County—Lauderdale	
Parts:	
C.T. 117-118	
County—Limestone	
Parts:	
*C.T. 202-203	
West Tuscaloosa	1
County—Tuscaloosa	
Parts:	
C.T. 116-119	

PRIMARY CARE: Alabama*Population Group Listing*

Population Group	Degree of shortage group
Med. Ind. Pop.—Jackson Co.	4
County—Jackson	
Parts:	
Med. Ind. Pop.	
Pov. Pop.—Madison Co.	4
County—Madison	
Parts:	
Pov. Pop.	
Pov. Pop.—Montgomery Co.	3
County—Montgomery	
Parts:	
Pov. Pop.	
Pov. Pop.—Morgan Co.	3
County—Morgan	
Parts:	
Pov. Pop.	
Pov. Pop.—Central Birmingham	3
County—Jefferson	
Parts:	
C.T. 5-9	
C.T. 15-17	
C.T. 24-25	
C.T. 26.01-26.02	
C.T. 27	
C.T. 28.01-28.02	
C.T. 29	
C.T. 30.02	
C.T. 41-42	
C.T. 44-46	
C.T. 51.01	
C.T. 55	
Pov. Pop.—E. Mobile	1
County—Mobile	
Parts:	
C.T. 1-3	
C.T. 4.01-4.02	
C.T. 5-6	
C.T. 7.01-7.02	
C.T. 8	
C.T. 10.01-10.02	
C.T. 11	
C.T. 12.01	
C.T. 13.01-13.02	
C.T. 14	
C.T. 15.01-15.02	
C.T. 23.01-23.02	
C.T. 26	
C.T. 38.01	

PRIMARY CARE: Alabama—Continued*Population Group Listing*

Population Group	Degree of shortage group
C.T. 39.01-39.02	
C.T. 40-50	
Pov. Pop.—Gadsden	1
County—Etowah	
Parts:	
C.T. 1-17	

PRIMARY CARE: Alabama*Facility Listing*

Facility Name	Degree of shortage group
Univ. S. Al. Chldrs. Md. Ctr.	1
County—Mobile	
Univ. S. Ala. Chldrs. Med. Ctr.	

PRIMARY CARE: Alaska*Census Area Listing*

Census Area Name	Degree of shortage group
*Aleutian Island Area	2
Anchorage Borough	
Population Group: Med. Ind.—Anchor- age Boro.	3
Facility: Hilland Mtn/Meadow Crk Corr Ctr.	2
Facility: 3rd Ave/6th Ave Annex/Rid- geview	2
*Bethel Area	1
Bristol Bay Borough	
Service Area: Bristol Bay/Kokhanok	1
*Dillingham Area	
Service Area: Bristol Bay/Kokhanok	1
Service Area: Chignik/Perryville	1
Service Area: Togiak/Twin Hills	1
*Kenai Peninsula Borough	
Facility: Cook Inlet Pre-Trial Facil.	2
*Kobuk Area	1
*Matanuska-Susitna Borough	
Facility: Palmer Correctional Ctr.	2
*North Slope Borough	1
*Prince Of Wales-Outer Ket.	3
*Skagway-Yakutat-Angoon	1
*Southeast Fairbanks	2
*Valdez-Cordova Area	
Service Area: Whittier	1
*Wade Hampton Area	1
*Wrangell-Petersburg Area	
Service Area: Kake	1
*Yukon-Koyukuk	1

PRIMARY CARE: Alaska*Service Area Listing*

Service Area Name	Degree of shortage group
Bristol Bay/Kokhanok	1
Census Area—Bristol Bay Borough	
Census Area—Dillingham Area	
Parts:	
Iguligig	
Kokhanok	
Pedro Bay	
Chignik/Perryville	1
Census Area—Dillingham Area	
Parts:	
Chignik	
Chignik Lake	
Chignik Lagoon	
Ivanhof Bay	
Perryville	
Kake	1
Census Area—Wrangell-Petersburg Area	
Parts:	
*Kupreanof Is. (N.W. Pt.)	
Togiak/Twin Hills	1
Census Area—Dillingham Area	
Parts:	
Togiak City	
Twin Hills	
Whittier	1
Census Area—Valdez-Cordova Area	
Parts:	
Whittier City	

PRIMARY CARE: Alaska*Population Group Listing*

Population Group	Degree of shortage group
Med. Ind.—Anchorage Boro.	3
Census Area—Anchorage Borough	
Parts:	
Mun. Of Anchorage	

PRIMARY CARE: Alaska*Facility Listing*

Facility Name	Degree of shortage group
Cook Inlet Pre-Trial Facil.	2
Census Area—Kenai Peninsula Borough	
Hilarid Mtn/Meadow Crk Corr Ctr.	2
Census Area—Anchorage Borough	
Palmer Correctional Ctr.	2
Census Area—Matanuska-Susitna Borough	
3rd Ave/6th Ave Annex/Ridgeview	2
Census Area—Anchorage Borough	

PRIMARY CARE: Arizona*County Listing*

County Name	Degree of shortage group
*Apache	
Service Area: Ganado/Rough Rock	1
Service Area: Kayenta	1
Service Area: Puerco Valley	1
Service Area: Tsaile	1
Population Group: White Mountain Apache Indian Tribe	1
*Cochise	
Service Area: Bisbee	4
Service Area: Bowie	1
Service Area: Douglas	3
Service Area: Elfreida	1
Service Area: Tombstone	1
*Coconino	
Service Area: Page/Tuba City	2
Population Group: Hopi Indian Tribe	1
*La Paz	2
Maricopa	
Population Group: Gila River Indian Community	1
Population Group: Med. Ind. Pop.—Guadalupe	1
Population Group: Med. Ind.—Central/South Phoenix	1
Population Group: Med. Ind./Mig.Fwkr.—El Mirage	1
Facility: Maricopa Co. Jails	2
*Mohave	
Service Area: Dolan Springs	1
*Navajo	
Service Area: Ganado/Rough Rock	1
Service Area: Heber/Overgaard	1
Service Area: Kayenta	1
Population Group: Hopi Indian Tribe	1
Population Group: White Mountain Apache Indian Tribe	1
Pima	
Service Area: Arivaca	1
Service Area: Catalina-Oracle Junction	2
Service Area: Marana	2
Service Area: Sahaurita-Continental	1
Population Group: Med. Ind. Pop.—South Tucson	2
*Pinal	
Service Area: Catalina-Oracle Junction	2
Service Area: San Pedro Valley	2
Service Area: Superior	1
Population Group: Gila River Indian Community	1
Population Group: Med. Ind. Pop.—Cent/W Pinal	2
*Santa Cruz	1
*Yavapai	
Service Area: Seligman	1
*Yuma	
Service Area: Wellton	2
Population Group: Pov./Mig. Pop.—Somerton	1

PRIMARY CARE: Arizona*Service Area Listing*

Service Area Name	Degree of shortage group
Arivaca	1
County—Pima	
Parts:	
E.D. 257-262 (C.T. 43.05)	
Bisbee	4
County—Cochise	
Parts:	
Bisbee CCD	
Bowie	1
County—Cochise	
Parts:	
*Bowie CCD	
Catalina-Oracle Junction	2
County—Pima	
Parts:	
Catalina CDP	
County—Pinal	
Parts:	
*Oracle Junction	
Dolan Springs	1
County—Mohave	
Parts:	
*E.D. 23-25 (Kingman N. CCD)	
*E.D. 33-35 (Kingman N. CCD)	
*E.D. 37 (Kingman N. CCD)	
Douglas	3
County—Cochise	
Parts:	
*E.D. 86 (Elfreida CCD)	
*E.D. 90-93 (Douglas CCD)	
Elfreida	1
County—Cochise	
Parts:	
*E.D. 87-89 (Elfreida CCD)	
Ganado/Rough Rock	1
County—Apache	
Parts:	
*Chinle CCD (W. Pt.)	
*Ft. Defiance CCD (W. Pt.)	
County—Navajo	
Parts:	
*Indian Wells CCD (E. Pt.)	
*Pino CCD (S.E. Pt.)	
Heber/Overgaard	1
County—Navajo	
Parts:	
*E.D. 418-423 (Snowflake CCD)	
Kansb/Fredonia (U/Az)	0
Parts:	
E.D. 11 (Kaibab CCD)	
E.D. 11 (Kaibab CCD)	
E.D. 11 (Kaibab CCD)	
E.D. 111 (Kaibab CCD)	
E.D. 115-116 (Kaibab CCD)	
Kayenta	1
County—Apache	
Parts:	
Dennehotso CCD	
County—Navajo	
Parts:	
Western CCD	
Marana	2
County—Pima	
Parts:	
C.T. 44.05 (N. Pt.)	
Page/Tuba City	2
County—Coconino	
Parts:	
Kaibab CCD (E. Pt.)	
Tuba City CCD (N. Pt.)	
Puerco Valley	
County—Apache	
Parts:	
*Ft. Defiance CCD (S. Pt.)	
*Puerco CCD (E.D. 552, 553, 557)	
Sahaurita-Continental	

PRIMARY CARE: Arizona—Continued*Service Area Listing*

Service Area Name	Degree of shortage group
County—Pima Parts: E.D. 238-243	2
San Pedro Valley	
County—Pinal Parts: *E.D. 76-82 (San Manuel CCD) *E.D. 86-88 (San Manuel CCD) *E.D. 90 (San Manuel CCD)	1
Seligman	
County—Yavapai Parts: Ashfork CCD	1
Superior	
County—Pinal Parts: *E.D. 1-6 (n. Pinal CCD)	1
Tombstone	
County—Cochise Parts: Tombstone City E.D. 72-73 (Tombstone CCD) E.D. 76 (Tombstone CCD)	1
Tsalle	
County—Apache Parts: *Chinle CCD (N.E. Pl.) *Sweetwater CCD (S.W. Pl.)	2
Wellton	
County—Yuma Parts: *E.D. 228-229 (Wellton CCD) *E.D. 239-240 (Wellton CCD)	

PRIMARY CARE: Arizona*Population Group Listing*

Population Group	Degree of shortage group
Gila River Indian Community County—Maricopa Parts: Gila River Res.	1
County—Pinal Parts: Gila River Res.	
Hopi Indian Tribe County—Coconino Parts: Hopi CCD	1
County—Navajo Parts: Hopi CCD.	
Med. Ind.—Central/South Phoenix County—Maricopa Parts: C.T. 1129-1133 C.T. 1138-1161 C.T. 1163-1165 C.T. 1166.02	1
Med. Ind. Pop.—Cent/W Pinal County—Pinal Parts: Casa Grande CCD Coolidge CCD Eloy CCD Maricopa-Stanfield CCD Sacaton CCD	
Med. Ind. Pop.—Guadalupe	1

PRIMARY CARE: Arizona—Continued*Population Group Listing*

Population Group	Degree of shortage group
County—Maricopa Parts: C.T. 3200.02	2
Med. Ind. Pop.—South Tucson	
County—Pima Parts: C.T. 1-12 C.T. 13.01-13.02 C.T. 14 C.T. 20-24 C.T. 25.01-25.02 C.T. 37.01-37.03 C.T. 38-39 C.T. 41.03-41.04 C.T. 43.01	1
Med. Ind./Mig.Frwkr.—El Mirage	
County—Maricopa Parts: C.T. 405.01 C.T. 608-609 C.T. 610.01	1
Pov./Mig. Pop.—Somerton	
County—Yuma Parts: C.T. 114-116	1
White Mountain Apache Indian Tribe	
County—Apache Parts: Ft. Apache In. Res.	
County—Navajo Parts: White Mt. In. Res.	

PRIMARY CARE: Arizona*Facility Listing*

Facility Name	Degree of shortage group
Maricopa Co. Jails	2
County—Maricopa	

PRIMARY CARE: Arkansas*County Listing*

County Name	Degree of shortage group
*Arkansas Service Area: Dewitt	4
*Ashley Service Area: Portland/Wilmot	2
*Boone Service Area: Lead Hill	1
*Bradley Service Area: Hermitage	1
*Calhoun	3
*Clay	3
*Clebune	3
*Cleveland	4
Crawford Service Area: Mountainburg/Chester	1
Crittenden Service Area: Parkin/Earle	1
*Cross Service Area: Parkin/Earle	1

PRIMARY CARE: Arkansas—Continued*County Listing*

County Name	Degree of shortage group
*Dallas Service Area: Carthage	1
Service Area: Sparkman	1
*Desha Service Area: Snow Lake	1
Faulkner Service Area: Vilonia	1
*Franklin Service Area: Cass	1
*Fulton Service Area: Mammoth Springs	2
*Grant	3
*Howard Service Area: Umpire	1
*Izard Service Area: Horseshoe Bend	4
Jefferson Service Area: Altheimer	1
Service Area: North Pine Bluff	1
Service Area: Redfield	1
Service Area: Richland	1
Facility: Tucker/Tucker Maximum Prs.	2
*Johnson Service Area: Oak	1
*Lafayette	2
*Lawrence	4
*Lee	4
*Lincoln Facility: Cummins Prison	2
*Logan	4
*Madison	2
*Marion Service Area: Lead Hill	1
*Mississippi Population Group: Med. Ind. Pop.— Mississippi Co.	2
*Monroe Service Area: Clarendon	2
*Montgomery	2
*Nevada	4
*Newton	1
*Ouachita Service Area: Reader	1
Service Area: Stephens	1
*Perry	4
*Phillips Service Area: Elaine	2
*Poinsett	4
*Polk Service Area: Grannis/Wickes	1
*Pope Service Area: Hector	1
*Prairie	4
Pulaski Service Area: College Station	1
Facility: Wrightsville Prison	2
*Scott	4
*Searcy	4
Sebastian Service Area: Diamond	3
*Sharp	3
*Union Service Area: Strong	1
*Van Buren	4
Washington Service Area: West Washington	2
*Woodruff Population Group: Pov. Pop.—Cotton Plant	4
*Yell Service Area: Havana	1

PRIMARY CARE: Arkansas

Service Area Listing

Service Area Name	Degree of shortage group
Altheimer.....	1
County—Jefferson	
Parts:	
C.T. 1	
C.T. 7	
Carthage.....	1
County—Dallas	
Parts:	
*Chester Twp.	
*Smith Twp.	
*Willow Twp.	
Cass.....	1
County—Franklin	
Parts:	
Boston Twp.	
Cobb Twp.	
Limestone Twp.	
McIlroy Twp.	
Morgan Twp.	
Shores Twp.	
Clarendon.....	2
County—Monroe	
Parts:	
*Cache Twp.	
*Cypress Ridge Twp.	
*Hindman Twp.	
*Keevil Twp.	
*Pine Ridge Twp.	
*Roc Roe Twp.	
College Station.....	1
County—Pulaski	
Parts:	
C.T. 2	
C.T. 4-5	
C.T. 40.01	
C.T. 40.03	
C.T. 40.05	
Dewitt.....	4
County—Arkansas	
Parts:	
Arkansas Twp.	
Bayou Moto Twp.	
Brewer Twp.	
Chester Twp.	
Crockett Twp.	
Garland Twp.	
La Grue Twp.	
Point De Luce Twp.	
Prairie Twp.	
Stanley Twp.	
Diamond.....	3
County—Sebastian	
Parts:	
Diamond Twp.	
Hartford Twp.	
Jim Fork Twp.	
Mississippi Twp.	
Sugarloaf Twp.	
Elaine.....	2
County—Phillips	
Parts:	
*Mooney Twp.	
*Tappan Twp.	
Grannis/Wickes.....	1
County—Polk	
Parts:	
*Ozark Twp.	
*White Twp.	
Havana.....	1
County—Yell	
Parts:	
*Bluffton Twp.	
*Briggsville Twp.	
*Crawford Twp.	
*Dutch Creek Twp.	
*Gravelly Hill Twp.	

PRIMARY CARE: Arkansas—Continued

Service Area Listing

Service Area Name	Degree of shortage group
*Herring Twp.	
*Ions Creek Twp.	
*Richland Twp.	
*Riley Twp.	
*Waveland Twp.	
Hector.....	1
County—Pope	
Parts:	
*Center Twp.	
*Freeman Twp.	
*Griffin Twp.	
*Jackson Twp.	
*Liberty Twp.	
*Martin Twp.	
*Phoenix Twp.	
*Smyrna Twp.	
Hermitage.....	1
County—Bradley	
Parts:	
*Eagle Twp.	
*Marion Twp.	
*Ouchita Twp.	
*Palestine Twp.	
*River Twp.	
*Sumpter Twp.	
*Washington Twp.	
Horseshoe Bend.....	4
County—Izard	
Parts:	
Baker Twp.	
Franklin Twp.	
Jefferson Twp.	
New Hope Twp.	
Violet Hill Twp.	
Lead Hill.....	1
County—Boone	
Parts:	
*Sugarloaf Twp.	
County—Marion	
Parts:	
*Crockett Twp.	
*Franklin Twp.	
*Keese Twp.	
*Sugarloaf Twp.	
Mammoth Springs.....	2
County—Fulton	
Parts:	
*Afton Twp.	
*Mammoth Springs Twp.	
*Wilson Twp. (Eastern 1/2)	
*Wyatt Twp.	
Mountainburg/Chester.....	1
County—Crawford	
Parts:	
Chester Twp.	
Mountain Twp.	
Porter Twp.	
Sand Point Twp.	
Shepherd Twp.	
Upper Twp.	
Whitley Twp.	
Winfrey Twp.	
North Pine Bluff.....	1
County—Jefferson	
Parts:	
C.T. 5.01-5.02	
C.T. 6	
C.T. 6.99	
C.T. 10-13	
C.T. 14.02	
C.T. 21.01	
Oark.....	1
County—Johnson	
Parts:	
Batson Twp.	
Dickerson Twp.	

PRIMARY CARE: Arkansas—Continued

Service Area Listing

Service Area Name	Degree of shortage group
Hill Twp.	
Low Gap Twp.	
Mulberry Twp.	
Parkin/Earle.....	1
County—Crittenden	
Parts:	
Tyronza Twp.	
County—Cross	
Parts:	
*Tyronza Twp.	
Portland/Wilmot.....	2
County—Ashley	
Parts:	
Banner Twp.	
Bayou Twp.	
Beachcreek Twp.	
Bearhouse Twp.	
De Bastrop Twp.	
Montrose Twp.	
Portland Twp.	
Prairie Twp.	
Union Twp.	
Wilmot Twp.	
Reader.....	1
County—Ouachita	
Parts:	
Behestian Twp.	
Red Hill Twp.	
Redfield.....	1
County—Jefferson	
Parts:	
C.T. 2	
Richland.....	1
County—Jefferson	
Parts:	
C.T. 8	
Snow Lake.....	1
County—Desha	
Parts:	
Mississippi Twp.	
Sparkman.....	1
County—Dallas	
Parts:	
*Manchester Twp.	
*Nix Twp.	
*Owen Twp.	
Stephens.....	1
County—Ouachita	
Parts:	
*Jefferson Twp.	
*Liberty Twp.	
*Smackover Twp.	
Strong.....	1
County—Union	
Parts:	
*Harrison Twp.	
*Lapile Twp.	
Umpire.....	1
County—Howard	
Parts:	
Burg Twp.	
Clay Twp.	
Duckett Twp.	
Mountain Twp.	
Umpire Twp.	
Vilonia.....	1
County—Faulkner	
Parts:	
Benton Twp.	
Bristol Twp.	
California Twp.	
Cypress Twp.	
Eagle Twp.	
Enola Twp.	
Hardin Twp.	
Harve Twp.	

PRIMARY CARE: Arkansas—Continued*Service Area Listing*

Service Area Name	Degree of shortage group
Matthews Twp. Mountain Twp. Mt. Vernon Twp. Newton Twp. Palarm Twp. Union Twp. Walker Twp. Wilson Twp.	
West Washington..... County—Washington Parts:	2
Boston Twp. Cane Hill Twp. Cove Creek Twp. Dutch Mills Twp. Illinois Twp. Morrow Twp. Price Twp. Rheas Hill Twp. Starr Hill Twp. Vineyard Twp. Weddington Twp.	

PRIMARY CARE: Arkansas*Population Group Listing*

Population Group	Degree of shortage group
Med. Ind. Pop.—Mississippi Co..... County—Mississippi Parts:	2
Med. Ind. Pop. Pov. Pop.—Cotton Plant..... County—Woodruff Parts:	4
Cache Twp. Caney Twp. Cotton Plant Twp. Franks Twp. Freeman Twp. Garden Twp. Point Twp.	

PRIMARY CARE: Arkansas*Facility Listing*

Facility Name	Degree of shortage group
Cummins Prison..... County—Lincoln 1 Cummins Prs.	2
Tucker/Tucker Maximum Prs..... County—Jefferson Tucker/Tucker Max Prs.	2
Wrightsville Prison..... County—Pulaski Wrightsville Prs.	2

PRIMARY CARE: California*County Listing*

County Name	Degree of shortage group
Alameda Service Area: Central Oakland.....	3
Service Area: East Oakland.....	1
Service Area: West Berkeley.....	1
*Alpine Service Area: Markleeville.....	1
Butte Service Area: Feather Falls.....	1
*Calaveras Service Area: West Point/Wisewayville.....	1
Contra Costa Service Area: East Contra Costa.....	2
*Del Norte Population Group: Indian Pop. (Trinidad).....	1
El Dorado Service Area: Georgetown Divide.....	1
Fresno Service Area: Edison/Easton.....	2
Service Area: Firebaugh/Mendota.....	2
Service Area: Huron.....	1
Service Area: Riverdale/Caruthers.....	2
Service Area: San Joaquin.....	1
Service Area: Sierra.....	3
*Glenn.....	3
*Humboldt Service Area: Willow Creek.....	2
Population Group: Indian Pop. (Trinidad).....	1
Population Group: Medi-Cal—Arcata/Eureka/Redway.....	4
*Imperial Service Area: Imperial Valley.....	4
*Inyo Service Area: Southern Inyo.....	2
Kern Service Area: Arvin/Lamont.....	2
Service Area: Frazier Park.....	2
Service Area: Lake Isabella.....	2
Service Area: Southeast Kern.....	2
Population Group: Pov./Mig.—Button-willow/Wasco/Shafter.....	1
*Kings Service Area: Avenal.....	2
Service Area: Corcoran.....	2
*Lassen Service Area: Honey Lake.....	1
Service Area: North Lassen.....	1
Los Angeles Service Area: Avalon/Goodyear/Main.....	1
Service Area: East Compton.....	3
Service Area: East L.A./City Terrace/Commerce.....	1
Service Area: El Monte.....	3
Service Area: Florence/Huntington Park.....	1
Service Area: Highland Pk./Linc Hts./Mt. Wash.....	2
Service Area: Maywood Bell.....	1
Service Area: Santa Catalina Island.....	3
Service Area: Venice.....	1
Service Area: Watts/Figueroa/Firestone.....	1
Service Area: West Compton.....	1
Population Group: Mono. Hispanic—Pacifica/San Fernando.....	2
Facility: Martin Luther King Jr. General Hospital.....	2
Marin Service Area: Bolinas/Stinson Beach.....	2
*Mendocino Service Area: Covelo.....	4
Service Area: Northwest Mendocino.....	2
Service Area: Potter Valley.....	2
Merced Service Area: Gustine/Newman.....	3

PRIMARY CARE: California—Continued*County Listing*

County Name	Degree of shortage group
Population Group: Indochinese Pop.—Atwater/Merced.....	2
Population Group: Mig./Monolingual Span.—Planada-La Grande.....	1
Population Group: Mig./Span. Sp.—Los Banos/Dos Palos.....	3
Population Group: Span. Sp. Pop.—N.W. Merced.....	1
*Modoc Service Area: Adin-Lookout.....	1
Service Area: Surprise Valley.....	4
Service Area: Tule Lake—Butte Valley.....	3
*Mono Service Area: North Mono.....	1
Monterey Service Area: Soledad.....	2
Population Group: MSFW—Pajaro Valley.....	3
Orange Facility: Juvenile Detention Facilities.....	2
*Plumas Service Area: Greenville.....	4
Population Group: Medi-Cal Eligible Pop.—Loyalton.....	1
Riverside Population Group: Morongo Indian Pop.....	1
Population Group: MSFW—Lower Coachella Valley.....	1
Population Group: Soboba Indian Pop.....	1
*San Benito Service Area: Hollister.....	3
Service Area: San Benito-Bitterwater.....	1
San Bernardino Service Area: Arrowhead.....	4
Service Area: 29 Palms/Morongo Valley.....	2
Population Group: Morongo Indian Pop.....	1
Population Group: San Manuel Indian Pop.....	1
San Diego Service Area: Anza.....	2
Service Area: Barrio Logan.....	1
Service Area: Mountain Empire.....	2
Service Area: Palomar/Laguna.....	2
Service Area: Ramona.....	3
Service Area: San Ysidro.....	1
Service Area: Valley Center/Pauma Valley.....	1
Population Group: Indochinese/Pov. Pop.—Linda Vista.....	2
Population Group: Medicaid Eligible—Oceanside.....	1
Population Group: Span. Spk. Pop.—San Marcos.....	4
San Francisco Service Area: Tenderloin.....	3
San Mateo Service Area: East Palo Alto.....	2
Santa Barbara Service Area: Cuyama Valley.....	1
Santa Cruz Population Group: MSFW—Pajaro Valley.....	3
Shasta Service Area: Burney Basin.....	2
Service Area: Shingletown.....	1
*Sierra Service Area: Downieville.....	1
Population Group: Medi-Cal Eligible Pop.—Loyalton.....	1
*Siskiyou Service Area: Etna/Fl. Jones.....	3
Service Area: Happy Camp.....	2
Service Area: Tule Lake—Butte Valley.....	3

PRIMARY CARE: California—Continued

County Listing	
County Name	Degree of shortage group
Solano Population Group: Medicald Pop.—Vacaville.....	4
Sonoma Population Group: Pov./Homeless/Aids Pop.—Guerneville.....	1
Stanislaus Service Area: Gustine/Newman.....	3
*Tehama Population Group: Medi-Cal Eligible Pop.—Tehama Co.....	4
*Trinity Service Area: Hayfork/Mad River.....	3
Service Area: Willow Creek.....	2
Tulare Service Area: Springville.....	1
Service Area: Tipton.....	1
Service Area: Woodlake.....	4
Population Group: Span. Sp. Pop.—Porterville.....	3
*Tuolumne Service Area: Groveland.....	1
Service Area: Stanislaus/Yosemite.....	1
Ventura Population Group: Mig./Mono. Span. Sp. Pop.—Cen. Ventura.....	1

PRIMARY CARE: California

Service Area Listing	
Service Area Name	Degree of shortage group
Adin-Lookout.....	1
County—Modoc Parts: *Adin-Lookout CCD	
Anza.....	2
County—San Diego Parts: C.T. 210	
Arrowhead.....	4
County—San Bernardino Parts: C.T. 101	
Arvin/Lamont.....	2
County—Kern Parts: C.T. 62-64	
Avalon/Goodyear/Main.....	1
County—Los Angeles Parts: C.T. 2281-2289 C.T. 2291-2294 C.T. 2311 C.T. 2318-2319 C.T. 2328 C.T. 2391-2396	
Avenal.....	2
County—Kings Parts: Avenal CCD Stratford CCD (Ed45-Kettleman City) Stratford CCD (Ed47b-Avenal Town)	
Barrio Logan.....	1
County—San Diego Parts: C.T. 38-41 C.T. 45-54	

PRIMARY CARE: California—Continued

Service Area Listing	
Service Area Name	Degree of shortage group
Bolinas/Stinson Beach.....	2
County—Marin Parts: C.T. 1321	
Burney Basin.....	2
County—Shasta Parts: E.D. 326-327 (East Shasta CCD) E.D. 329 (East Shasta CCD) E.D. 332-333 (Central Shasta CCD) E.D. 335-337 (Central Shasta CCD) E.D. 340-341 (Central Shasta CCD)	
Central Oakland.....	3
County—Alameda Parts: C.T. 4053-4063 C.T. 4065 C.T. 4070-4072	
Corcoran.....	2
County—Kings Parts: Corcoran CCD Stratford CCD (E.D.44) Stratford CCD (E.D.47a) Stratford CCD (E.D.48)	
Covelo.....	4
County—Mendocino Parts: *Covelo CCD	
Cuyama Valley.....	1
County—Santa Barbara Parts: Cuyama CCD	
Downieville.....	1
County—Sierra Parts: West Sierra CCD	
East Compton.....	3
County—Los Angeles Parts: C.T. 5416.01-5416.02 C.T. 5420 C.T. 5421.01-5421.02 C.T. 5422 C.T. 5424.01-5424.02	
East Contra Costa.....	2
County—Contra Costa Parts: East Contra Costa CCD	
East L.A./City Terrace/Commerce.....	1
County—Los Angeles Parts: C.T. 5303-5306 C.T. 5308-5315 C.T. 5316.01-5316.02 C.T. 5317.01-5317.02 C.T. 5318-5319 C.T. 5323.01-5323.02	
East Oakland.....	1
County—Alameda Parts: C.T. 4073-4075 C.T. 4084-4097 C.T. 4102-4104	
East Palo Alto.....	2
County—San Mateo Parts: C.T. 6117-6121	
Edison/Easton.....	2
County—Fresno Parts: C.T. 2-3 C.T. 7-11	

PRIMARY CARE: California—Continued

Service Area Listing	
Service Area Name	Degree of shortage group
C.T. 19	
El Monte.....	3
County—Los Angeles Parts: C.T. 4324 C.T. 4327-4328 C.T. 4331-4335 C.T. 4337-4340	
Etna/Ft. Jones.....	3
County—Siskiyou Parts: *Etna CCD *Ft. Jones CCD	
Feather Falls.....	1
County—Butte Parts: Feather Falls CCD	
Firebaugh/Mendota.....	2
County—Fresno Parts: Firebaugh CCD (C.T.83) Mendota CCD (C.T. 84.01 & 84.02)	
Florence/Huntington Park.....	1
County—Los Angeles Parts: C.T. 5325-5332 C.T. 5335 C.T. 5345 C.T. 5347-5348	
Frazier Park.....	2
County—Kern Parts: C.T. 33.02	
Georgetown Divide.....	1
County—El Dorado Parts: C.T. 306	
Greenville.....	4
County—Plumas Parts: Greenville CCD	
Groveland.....	1
County—Tuolumne Parts: *Groveland CCD	
Gustine/Newman.....	3
County—Merced Parts: Gustine CCD County—Stanislaus Parts: Newman CCD	
Happy Camp.....	2
County—Siskiyou Parts: Happy Camp CCD	
Hayfork/Mad River.....	3
County—Trinity Parts: *Hayfork CCD *Mad River CCD	
Highland Pk/Linc Hts/Mt Wash.....	2
County—Los Angeles Parts: C.T. 1831.01-1831.02 C.T. 1832-1833 C.T. 1835-1838 C.T. 1851 C.T. 1852.01-1852.02 C.T. 1853 C.T. 1991-1999 C.T. 2011-2013 C.T. 2014.01-2014.02 C.T. 2015.01-2015.02 C.T. 2016-2017	

PRIMARY CARE: California—Continued*Service Area Listing*

Service Area Name	Degree of shortage group
C.T. 5307	
Hollister	3
County—San Benito	
Parts:	
*Hollister CCD	
*San Juan Bautista CCD	
Honey Lake	1
County—Lassen	
Parts:	
*Honey Lake CCD	
Huron	1
County—Fresno	
Parts:	
Huron CCD	
Imperial Valley	4
County—Imperial	
Parts:	
Brawley CCD	
Calexico CCD	
Calipatria-Westmorland CCD	
El Centro CCD	
Holtville CCD	
Imperial CCD	
Lake Isabella	2
County—Kern	
Parts:	
C.T. 51.01	
C.T. 52	
Markleeville	1
County—Alpine	
Parts:	
*Markleeville CCD	
Maywood Bell	1
County—Los Angeles	
Parts:	
C.T. 5333-5337	
C.T. 5338.01-5338.02	
C.T. 5339-5343	
*E.D. 5344.01-5344.02 (portola CCD)	
*E.D. 5 (portola CCD)	
Mountain Empire	2
County—San Diego	
Parts:	
Mountain Empire CCD	
North Lassen	1
County—Lassen	
Parts:	
*Big Valley CCD	
*Madeline Plains CCD	
North Mono	1
County—Mono	
Parts:	
*Mono North CCD	
*E.D. 21 (Mono South)	
Northwest Mendocino	2
County—Mendocino	
Parts:	
Laytonville-Leggett CCD	
Palomar/Laguna	2
County—San Diego	
Parts:	
C. T. 209.01	
Mfw	
C.T. 209.02 (portola CCD)	
Potter Valley	2
County—Mendocino	
Parts:	
*E.D. 200-202 (Redwood-Potter CCD)	
Ramona	3
County—San Diego	
Parts:	
Ramona CCD	
Riverdale/Caruthers	2

PRIMARY CARE: California—Continued*Service Area Listing*

Service Area Name	Degree of shortage group
County—Fresno	
Parts:	
C.T. 75-77	
San Benito-Bitterwater	1
County—San Benito	
Parts:	
*San Benito-Bitterwater CCD	
San Joaquin	1
County—Fresno	
Parts:	
San Joaquin-Tranquility CCD	
San Ysidro	1
County—San Diego	
Parts:	
C.T. 100.01-100.07	
C.T. 101.03-101.07	
C.T. 102-105	
Santa Catalina Island	3
County—Los Angeles	
Parts:	
C.T. 5990	
Shingletown	1
County—Shasta	
Parts:	
E.D. 343-347 (Central Shasta CCD)	
Sierra	3
County—Fresno	
Parts:	
Sierra CCD	
Soledad	2
County—Monterey	
Parts:	
C.T. 111 (Pt. Of Soledad CCD)	
Southeast Kern	2
County—Kern	
Parts:	
C.T. 55.02	
C.T. 56-59	
Southern Inyo	2
County—Inyo	
Parts:	
Death Valley CCD	
Independence CCD (S1/2)	
Lone Pine CCD	
Springville	1
County—Tulare	
Parts:	
C.T. 27	
Stanislaus/Yosemite	1
County—Tuolumne	
Parts:	
*Stanislaus/Yosemite CCD	
Surprise Valley	4
County—Modoc	
Parts:	
*Surprise Valley CCD	
Tenderloin	3
County—San Francisco	
Parts:	
C.T. 122-125	
Tipton	1
County—Tulare	
Parts:	
C.T. 32	
C.T. 42-44	
Tule Lake-Butte Valley	3
County—Modoc	
Parts:	
*Tule Lake CCD	
County—Siskiyou	
Parts:	
*Butte Valley CCD	
*Tule Lake CCD	
Valley Center/Pauma Valley	1

PRIMARY CARE: California—Continued*Service Area Listing*

Service Area Name	Degree of shortage group
County—San Diego	
Parts:	
C.T. 191.01-191.02	
Venice	1
County—Los Angeles	
Parts:	
C.T. 2731-2739	
Watts/Figueroa/Firestone	1
County—Los Angeles	
Parts:	
C.T. 2397-2399	
C.T. 2401-2409	
C.T. 2411-2416	
C.T. 2421-2429	
C.T. 2431	
C.T. 5349-5350	
C.T. 5351.01-5351.02	
C.T. 5352-5354	
C.T. 5404	
West Berkeley	1
County—Alameda	
Parts:	
C.T. 4220-4223	
C.T. 4230-4234	
C.T. 4240	
West Compton	1
County—Los Angeles	
Parts:	
C.T. 5411-5415	
C.T. 5425-5432	
West Point/Wilseyville	1
County—Calaveras	
Parts:	
E.D. 50 (W. Pt. Wisyvl CCD)	
E.D. 55-59 (W. Pt. Wisyvl CCD)	
Willow Creek	2
County—Humboldt	
Parts:	
*Trinity-Klamath CCD	
County—Trinity	
Parts:	
*Lower Trinity CCD	
Woodlake	4
County—Tulare	
Parts:	
Woodlake—Three Rivers CCD	
29 Palms/Morango Valley	2
County—San Bernardino	
Parts:	
C.T. 104.01	
C.T. 104.03-104.04	

PRIMARY CARE: California*Population Group Listing*

Population Group	Degree of shortage group
Indian Pop. (Trinidad)	1
County—Del Norte	
Parts:	
Indian Pop.	
County—Humboldt	
Parts:	
Indian Pop.	
Indochinese Pop.—Atwater/Merced	2
County—Merced	
Parts:	
Atwater CCD	
Merced CCD	
Indochinese/Pov. Pop.—Linda Vista	2

PRIMARY CARE: California—Continued

Population Group Listing

Population Group	Degree of shortage group
County—San Diego Parts: C.T. 86 C.T. 87.01 C.T. 88 C.T. 89.01 C.T. 90 C.T. 91.05	
Medi-Cal—Arcata/Eureka/Redway	4
County—Humboldt Parts: Arcata CCD Eureka CCD Ferndale CCD Fortuna CCD Garberville CCD North Coastal CCD	
Medi-Cal Eligible Pop.—Loyalton	1
County—Plumas E.D. 5 (portola CCD)	
County—Sierra Parts: East Sierra CCD	
Medi-Cal Eligible Pop.—Tehama Co.	4
County—Tehama Parts: Medi-Cal Eligible Pop.	
Medicaid Eligible—Oceanside	1
County—San Diego Parts: C.T. 181-184 C.T. 185.01-185.02 C.T. 185.04-185.06 C.T. 186.01 C.T. 186.03-186.05 C.T. 193	
Medicaid Pop.—Vacaville	4
County—Solano Parts: Medicaid Pop.	
Mig./Mono. Span. Sp. Pop.—Cen. Ventura	1
County—Ventura Parts: Fillmore-Piru CCD Moorpark CCD Oxnard CCD Santa Paula CCD Saticoy CCD	
Mig./Monolingual Span.—Planada-Le Grande	1
County—Merced Parts: Planada-Le Grand CCD	
Mig./Span. Sp.—Los Banos/Dos Palos	3
County—Merced Parts: Migrants (C.T. 21-24) Mono. Span. (C.T. 21-24)	
Mono. Hispanic—Pacoima/San Fernando	2
County—Los Angeles Parts: C.T. 1041.01-1041.02 C.T. 1042.01-1042.02 C.T. 1043-1048 C.T. 1091 C.T. 1094-1095 C.T. 1191-1192 C.T. 1194-1195 C.T. 1198 C.T. 3201-3203	
Morongo Indian Pop.	1
County—Riverside Parts: Indian Pop.	

PRIMARY CARE: California—Continued

Population Group Listing

Population Group	Degree of shortage group
County—San Bernardino Parts: Indian Pop. (Banning Area)	
MSFW—Lower Coachella Valley	1
County—Riverside Parts: C.T. 456.01-456.02 C.T. 457.01-457.02	
MSFW—Pajaro Valley	3
County—Monterey Parts: Pajaro CCD County—Santa Cruz Parts: Watsonville CCD	
Pov./Homeless/Aids Pop.—Guerneville	1
County—Sonoma Parts: Homeless Persons With Aids C.T. 1537.01-1537.02 (S.1/2) C.T. 1543 (S.1/2)	
Pov./Mig.—Buttonwillow/Wasco/Shafter	1
County—Kern Parts: C.T. 33.01 (S.1/2) C.T. 37 (S.1/2) C.T. 39-45	
San Manuel Indian Pop.	1
County—San Bernardino Parts: San Manuel Res.	
Soboba Indian Pop.	1
County—Riverside Parts: Indian Pop.	
Span. Sp. Pop.—N.W. Merced	1
County—Merced Parts: Hilmer-Irwin CCD Livingston-Delhi CCD	
Span. Sp. Pop.—Porterville	3
County—Tulare Parts: C.T. 33-41 C.T. 45	
Span. Spk. Pop.—San Marcos	4
County—San Diego Parts: San Marcos City	

PRIMARY CARE: California

Facility Listing

Facility Name	Degree of shortage group
Juvenile Detention Facilities	2
County—Orange	
Martin Luther King Jr. General Hospital	2
County—Los Angeles	

PRIMARY CARE: Colorado

County Listing

County Name	Degree of shortage group
Adams Service Area: Bennett/Strasburg	2
Service Area: Commerce City	4
Population Group: MSFW—Weld Co.	1
Arapahoe Service Area: Bennett/Strasburg	2
*Baca	1
*Bent Population Group: Med. Ind.—Bent/Crowley/Otero	1
Boulder Population Group: MSFW—Weld Co.	1
Population Group: Pov. Pop.—Lafayette/Louisville	1
*Cheyenne	1
*Conejos Population Group: Med. Ind. Pop.—Conejos Co.	1
*Costilla	1
*Crowley Population Group: Med. Ind.—Bent/Crowley/Otero	1
*Custer	1
*Dolores	1
El Paso Service Area: Calhan-Yoder	2
Population Group: Med. Ind. Pop.—Colorado Springs	1
*Elbert Service Area: Kiowa/Elizabeth	1
Service Area: Limon	2
*Gilpin	1
*Hinsdale	1
*Huerfano Service Area: Gardner	4
*Las Animas	4
*Lincoln Service Area: Limon	2
*Moffat Service Area: Rangely	1
*Montrose Service Area: Nucla/Norwood	2
*Otero Population Group: Med. Ind.—Bent/Crowley/Otero	1
*Park Service Area: Fairplay	1
Service Area: Lake George	1
*Prowers	2
Pueblo Service Area: Avondale/Boone	1
Population Group: Med. Ind. Pop.—Pueblo City	1
*Rio Blanco Service Area: Rangely	1
*Routt Service Area: Oak Creek/Yampa	4
*Saguache	1
*San Miguel Service Area: Nucla/Norwood	2
Weld Population Group: MSFW—Weld Co.	1

PRIMARY CARE: Colorado*Service Area Listing*

Service Area Name	Degree of shortage group
Avondale/Boone.....	1
County—Pueblo	
Parts:	
C.T. 32-34 (Avondale)	
Bennett/Strasburg.....	2
County—Adams	
Parts:	
East Adams Div.	
County—Arapahoe	
Parts:	
East Arapahoe Div.	
Calhan-Yoder.....	2
County—El Paso	
Parts:	
C.T. 39.01	
C.T. 46	
Commerce City.....	4
County—Adams	
Parts:	
C.T. 87.03 (Commerce City)	
C.T. 87.05-87.06 (Irondale City)	
C.T. 88.01-88.02 (Commerce City)	
C.T. 89.01 (Commerce City)	
C.T. 89.52 (Commerce City)	
Fairplay.....	1
County—Park	
Parts:	
Fairplay Div.	
Gardner.....	4
County—Huerfano	
Parts:	
Gardner Div.	
Kiowa/Elizabeth.....	1
County—Elbert	
Parts:	
*Kiowa Div.	
Lake George.....	1
County—Park	
Parts:	
Lake George Div.	
Limon.....	2
County—Elbert	
Parts:	
*Agate Div.	
*Simla Div.	
County—Lincoln	
Nucila/Norwood.....	2
County—Montrose	
Parts:	
Nucila Div.	
County—San Miguel	
Parts:	
Norwood Div.	
Oak Creek/Yampa.....	4
County—Ft. Collins	
Parts:	
*Oak Creek Div.	
*Yampa Div.	
Rangely.....	1
County—Moffat	
Parts:	
*Artesia Div.	
County—Rio Blanco	
Parts:	
*Rangely Div.	

PRIMARY CARE: Colorado*Population Group Listing*

Population Group	Degree of shortage group
Med. Ind.—Bent/Crowley/Otero.....	1
County—Bent	
Parts:	
Med. Ind.—Bent/Crowley/Otero	
County—Crowley	
Parts:	
Med. Ind.	
County—Otero	
Parts:	
Med. Ind.	
Med. Ind. Pop.—Colorado Springs.....	1
County—El Paso	
Parts:	
C.T. 13.01 (Med. Ind.)	
C.T. 14-17 (Med. Ind.)	
C.T. 21.01 (Med. Ind.)	
C.T. 22-23 (Med. Ind.)	
C.T. 26-29 (Med. Ind.)	
Med. Ind. Pop.—Conejos Co.....	1
County—Conejos	
Parts:	
Med. Ind. Pop.	
Med. Ind. Pop.—Pueblo City.....	1
County—Pueblo	
Parts:	
C.T. 1-2 (Med. Ind.)	
C.T. 4-8 (Med. Ind.)	
C.T. 9.02 (Med. Ind.)	
C.T. 10-27 (Med. Ind.)	
C.T. 28.01-28.02 (Med. Ind.)	
C.T. 29.01 (Med. Ind.)	
MSFW—Weld Co.....	1
County—Adams	
Parts:	
C.T. 85.13-85.14 (MSFW)	
C.T. 86.01-86.02 (MSFW)	
County—Boulder	
Parts:	
C.T. 128 (MSFW)	
C.T. 132.01 (MSFW)	
C.T. 132.04 (MSFW)	
C.T. 133.02-133.04 (MSFW)	
C.T. 134 (MSFW)	
C.T. 135.01-135.02 (MSFW)	
County—Weld	
Parts:	
MSFW	
Pov. Pop.—Lafayette/Louisville.....	1
County—Boulder	
Parts:	
C.T. 129.01-129.02	
C.T. 130	
C.T. 131.02-131.05	

PRIMARY CARE: Connecticut*County Listing*

County Name	Degree of shortage group
Fairfield	
Service Area: Southwest Bridgeport.....	3
Population Group: Poverty Pop.—Central/East Bridgeport.....	4
Hartford	
Service Area: Charter Oak/Rice Hts.....	1
Service Area: North-Central Hartford.....	1
New Haven	
Service Area: Fair Haven.....	1

PRIMARY CARE: Connecticut—Continued*County Listing*

County Name	Degree of shortage group
New London	
Population Group: Pov. Pop.—New London.....	3

PRIMARY CARE: Connecticut*Service Area Listing*

Service Area Name	Degree of shortage group
Charter Oak/Rice Hts.....	1
County—Hartford	
Parts:	
C.T. 5046	
C.T. 5049	
Fair Haven.....	1
County—New Haven	
Parts:	
C.T. 1421-1426	
North-Central Hartford.....	1
County—Hartford	
Parts:	
C.T. 5008-5015	
C.T. 5017-5018	
C.T. 5035	
C.T. 5037	
Southwest Bridgeport.....	3
County—Fairfield	
Parts:	
C.T. 702-711	

PRIMARY CARE: Connecticut*Population Group Listing*

Population Group	Degree of shortage group
Pov. Pop.—New London.....	3
County—New London	
Parts:	
C.T. 6901	
C.T. 6903-6907	
Poverty Pop.—Central/East Bridgeport.....	4
County—Fairfield	
Parts:	
C.T. 713-717	
C.T. 735-744	

PRIMARY CARE: DELAWARE*County Listing*

County Name	Degree of shortage group
New Castle	
Service Area: Middletown-Odessa.....	3
Service Area: Wilmington—South-bridge.....	2

PRIMARY CARE: DELAWARE—
Continued

County Listing

County Name	Degree of shortage group
*Sussex Service Area: Mid-Sussex (Indian River).....	4

PRIMARY CARE: DELAWARE

Service Area Listing

Service Area Name	Degree of shortage group
Mid-Sussex (Indian River).....	4
County—Sussex Parts: *Georgetown CCD (C.T. 505) *Millsboro CCD (C.T. 506-507) *Selbyville-Frankford CCD (C.T. 512-516)	
Middletown-Odessa.....	3
County—New Castle Parts: Middletown-Odessa CCD	
Wilmington—Southbridge.....	2
County—New Castle Parts: C.T. 1 C.T. 6.01-6.02 C.T. 7-9 C.T. 15-17 C.T. 19-23 C.T. 154-155	

PRIMARY CARE: District Of Columbia

County Listing

County Name	Degree of shortage group
Dist Of Columbia Service Area: Anacostia.....	1
Population Group: Span. Sp. Pop.—Adams-Morgan.....	1
Facility: D.C. Detention Facility.....	2

PRIMARY CARE: District Of Columbia

Service Area Listing

Service Area Name	Degree of shortage group
Anacostia.....	1
County—Dist Of Columbia Parts: C.T. 77.03 C.T. 77.07-77.09 C.T. 78.03-78.05 C.T. 78.07-78.08 C.T. 96.01-96.04 C.T. 99.01-99.07	

PRIMARY CARE: District Of Columbia

Population Group Listing

Population Group	Degree of shortage group
Span. Sp. Pop.—Adams-Morgan.....	1
County—Dist Of Columbia Parts: C.T. 27.20 C.T. 28 C.T. 37-40 C.T. 42.10 C.T. 43	

PRIMARY CARE: District Of Columbia

Facility Listing

Facility Name	Degree of shortage group
D.C. Detention Facility.....	2
County—Dist Of Columbia	

PRIMARY CARE: Florida

County Listing

County Name	Degree of shortage group
*Baker.....	1
Bay Population Group: Medicaid Pop.—Bay Co.....	4
Bradford.....	2
Brevard Population Group: Medicaid/Mig. Pop.—Brevard Co.....	1
Broward Population Group: Pov./Mig. Pop.—Pompano.....	2
*Calhoun.....	4
*Charlotte Population Group: Medicaid/Mig. Pop.—Charlotte Co.....	1
*Citrus Population Group: Medicaid Pop.—Citrus Co.....	1
Collier Service Area: Everglades.....	1
Service Area: Imokalee.....	1
*Columbia Population Group: Medicaid Pop.—Columbia Co.....	1
Dade Service Area: Model Cities.....	1
Service Area: Southern Dade (Homestead).....	2
Service Area: Wynwood.....	1
Population Group: Pov. Pop. Of S. Miami Beach.....	4
Facility: Doris Ison S. Dade Comm Hlth Ctr.....	1
Facility: Jackson Memorial Hosp.....	1
*De Soto Population Group: Pov./Mig. Pop.—Desoto Co.....	1
*Dixie.....	2
Duval Population Group: Low Income Pop.—Duval.....	2
Escambia Service Area: Northwestern Escambia.....	1

PRIMARY CARE: Florida—Continued

County Listing

County Name	Degree of shortage group
*Franklin.....	2
Gadsden.....	2
*Gilchrist.....	2
*Glades Service Area: Glades/Hendry.....	2
*Hamilton Population Group: Medicaid Pop.—Hamilton Co.....	4
*Hardee Population Group: Medicaid/Mig. Pop.—Hardee Co.....	1
*Hendry Service Area: Glades/Hendry.....	2
Hernando.....	3
*Highlands Population Group: Medicaid/MSFW Pop.—Highlands Co.....	1
Hillsborough Service Area: East Tampa/Ybor City.....	1
Population Group: Pov./Mig. Pop.—E. Hillsborough.....	1
*Holmes.....	2
*Indian River Population Group: Medicaid/Mig. Pop.—Indian River Co.....	1
*Jackson.....	3
*Jefferson.....	2
*Lafayette.....	2
*Lake Population Group: Medicaid/Mig. Pop.—Lake Co.....	1
Lee Population Group: Medicaid Mig. Pop.—Lee Co.....	1
*Levy.....	4
*Liberty.....	2
*Madison.....	3
Manatee Population Group: Medicaid/Mig. Pop.—Manatee Co.....	1
Marion Population Group: Medicaid/Mig. Pop.—Marion Co.....	1
Martin Service Area: Indiantown.....	2
Nassau Service Area: Callahan/Hilliard.....	2
*Okeechobee Population Group: Medicaid/Mig. Pop.—Okeechobee Co.....	2
Orange Population Group: Medicaid/Mig. Pop.—Orange Co.....	2
Osceola.....	4
Palm Beach Service Area: Belle Glade/Pahokee.....	1
Service Area: West Palm Beach.....	1
Pasco Population Group: Medicaid/Mig. Pop.—Pasco Co.....	4
Pinellas Population Group: Pov. Pop.—Inner St. Petersburg.....	2
Polk Service Area: Medicaid Pop.—Polk Co.....	1
*Putnam Population Group: Medicaid Pop.—Putnam Co.....	2
Santa Rosa Service Area: Northern Santa Rosa.....	3
Seminole Population Group: Medicaid/Mig. Pop.—Seminole Co.....	1
St Johns Population Group: Medicaid/Mig. Pop.—St. Johns Co.....	1

PRIMARY CARE: Florida—Continued*County Listing*

County Name	Degree of shortage group
St Lucie	
Population Group: Pov./Mig. Pop.—St. Lucie Co.	1
*Sumter	1
*Suwannee	2
*Taylor	
Population Group: Medicaid Pop.—Taylor Co.	1
*Union	2
Facility: R.M.C. Corr. Inst.	2
Volusia	
Population Group: Medicaid/Mig. Pop.—Volusia Co.	1
*Wakulla	3
*Walton	1
*Washington	
Population Group: Medicaid Pop.—Washington Co.	1

PRIMARY CARE: Florida*Service Area Listing*

Service Area Name	Degree of shortage group
Belle Glade/Pahokee	1
County—Palm Beach	
Parts:	
C.T. 60-83	
Callahan/Hilliard	2
County—Nassau	
Parts:	
C.T. 504-505	
East Tampa/Ybor City	1
County—Hillsborough	
Parts:	
C.T. 10	
C.T. 18-19	
C.T. 30-44	
C.T. 49-51	
Everglades	1
County—Collier	
Parts:	
C.T. 111	
Glades/Hendry	2
County—Glades	
County—Hendry	
Imokalee	1
County—Collier	
Parts:	
Mig. Pop.	
C.T. 112-114	
Indiantown	2
County—Martin	
Parts:	
Indiantown CCD	
Medicaid Pop.—Polk Co.	1
County—Polk	
Parts:	
Medicaid Pop.	
Model Cities	1
County—Dade	
Parts:	
C.T. 8.03	
C.T. 10.01-10.04	
C.T. 14	
C.T. 15.01-15.02	
C.T. 17.01-17.02	
C.T. 18.01-18.03	
C.T. 19.01-19.02	
C.T. 20.01-20.02	

PRIMARY CARE: Florida—Continued*Service Area Listing*

Service Area Name	Degree of shortage group
C.T. 22.01-22.02	
C.T. 23	
Northern Santa Rosa	3
County—Santa Rosa	
Parts:	
Jay (C.T. 102)	
Munson-McLellen (C.T. 101)	
Northwestern Escambia	1
County—Escambia	
Parts:	
Century	
Northwestern Escambia	
Southern Dade (Homestead)	2
County—Dade	
Parts:	
C.T. 103-105	
C.T. 106.02	
C.T. 107.01	
C.T. 108-114	
West Palm Beach	1
County—Palm Beach	
Parts:	
C.T. 21-26	
Wynwood	1
County—Dade	
Parts:	
C.T. 26	
C.T. 27.01-27.02	
C.T. 28	
C.T. 31	

PRIMARY CARE: Florida*Population Group Listing*

Population Group	Degree of shortage group
Low Income Pop.—Duval	2
County—Duval	
Parts:	
C.T. 1-5	
C.T. 9-19	
C.T. 26-29	
C.T. 107-109	
C.T. 112-116	
C.T. 118	
C.T. 121	
Medicaid Mig. Pop.—Lee Co.	1
County—Lee	
Parts:	
Medicaid/Mig. Pop.	
Medicaid Pop.—Bay Co.	4
County—Bay	
Parts:	
Medicaid Pop.	
Medicaid Pop.—Citrus Co.	1
County—Citrus	
Parts:	
Medicaid Pop.	
Medicaid Pop.—Columbia Co.	1
County—Columbia	
Parts:	
Medicaid Pop.	
Medicaid Pop.—Hamilton Co.	4
County—Hamilton	
Parts:	
Medicaid Pop.	
Medicaid Pop.—Putnam Co.	2
County—Putnam	
Parts:	
Medicaid Pop.	

PRIMARY CARE: Florida—Continued*Population Group Listing*

Population Group	Degree of shortage group
Medicaid Pop.—Taylor Co.	1
County—Taylor	
Parts:	
Medicaid Pop.	
Medicaid Pop.—Washington Co.	1
County—Washington	
Parts:	
Medicaid Pop.	
Medicaid/Mig. Pop.—Brevard Co.	1
County—Brevard	
Parts:	
Medicaid/Mig. Pop.	
Medicaid/Mig. Pop.—Charlotte Co.	1
County—Charlotte	
Parts:	
Medicaid/Mig. Pop.	
Medicaid/Mig. Pop.—Hardee Co.	1
County—Hardee	
Parts:	
Medicaid/Mig. Pop.	
Medicaid/Mig. Pop.—Indian River Co.	1
County—Indian River	
Parts:	
Medicaid/Mig. Pop.	
Medicaid/Mig. Pop.—Lake Co.	1
County—Lake	
Parts:	
Medicaid/Mig. Pop.	
Medicaid/Mig. Pop.—Manatee Co.	1
County—Manatee	
Parts:	
Medicaid/Mig. Pop.	
Medicaid/Mig. Pop.—Marion Co.	1
County—Marion	
Parts:	
Medicaid/Mig. Pop.	
Medicaid/Mig. Pop.—Okeechobee Co.	2
County—Okeechobee	
Parts:	
Medicaid Migrants	
Medicaid/Mig. Pop.—Orange Co.	2
County—Orange	
Parts:	
Medicaid Pop.	
Mig. Pop.	
Medicaid/Mig. Pop.—Pasco Co.	4
County—Pasco	
Parts:	
Medicaid/Mig. Pop.	
Medicaid/Mig. Pop.—St. Johns Co.	1
County—St. Johns	
Parts:	
Medicaid/Mig. Pop.	
Medicaid/Mig. Pop.—Seminole Co.	1
County—Seminole	
Parts:	
Medicaid/Mig. Pop.	
Medicaid/Mig. Pop.—Volusia Co.	1
County—Volusia	
Parts:	
Medicaid/Mig. Pop.	
Medicaid/MSFW Pop.—Highlands Co.	1
County—Highlands	
Parts:	
Medicaid Pop.	
MSFW	
Pov. Pop.—Inner St. Petersburg	2
County—Pinellas	
Parts:	
C.T. 201.01	
C.T. 203.01	
C.T. 204-208	
C.T. 209.95	
C.T. 210.95	
C.T. 212-215	

PRIMARY CARE: Florida—Continued

Population Group Listing

Population Group	Degree of shortage group
C.T. 216.95	
C.T. 218.95	
C.T. 219.95	
C.T. 220	
C.T. 234-235	
Pov. Pop. Of S. Miami Beach.....	4
County—Dade	
Parts:	
C.T. 42-45	
Pov./Mig. Pop.—Desoto Co.	1
County—De Soto	
Parts:	
Pov./Mig. Pop.	
Pov./Mig. Pop.—E. Hillsborough.....	1
County—Hillsborough	
Parts:	
Mig.	
Mig.	
C.T. 121.01-121.02	
C.T. 122.01-122.02	
C.T. 123.01-123.02	
C.T. 124-132	
C.T. 133.01-133.03	
C.T. 134	
C.T. 135.01-135.02	
C.T. 136-138	
C.T. 139.01-139.03	
C.T. 140	
C.T. 141.01-141.02	
Pov./Mig. Pop.—Pompano	2
County—Broward	
Parts:	
C.T. 103.01-103.02	
C.T. 107	
C.T. 303-306	
C.T. 308.01	
Pov./Mig. Pop.—St. Lucie Co.	1
County—St. Lucie	
Parts:	
Pov./Mig. Pop.	

PRIMARY CARE: Florida

Facility Listing

Facility Name	Degree of shortage group
Doris Ison S. Dade Comm Hlth Ctr.....	1
County—Dade	
Doris Ison Comm Hlth Ctr	
Jackson Memorial Hosp.....	1
County—Dade	
R.M.C. Corr. Inst.	2
County—Union 2	
Rmc Corr. Inst.	

PRIMARY CARE: Georgia

County Listing

County Name	Degree of shortage group
*Atkinson	4
*Baker	1
*Banks	2
*Bartow	4

PRIMARY CARE: Georgia—Continued

County Listing

County Name	Degree of shortage group
*Berrien	
Population Group: Mig. Pop.—Berrien/	
Cook	1
*Brantley	2
*Brooks	4
*Bryan	
Service Area: Pembroke	1
*Burke	4
*Charlton	1
Chatham	
Population Group: Pov. Pop.—N.W.	
Savannah	2
*Chattooga	2
*Cherokee	3
Clarke	
Population Group: Pov. Pop. Of The	
Athens NHC	1
*Colquitt	4
*Cook	
Population Group: Mig. Pop.—Berrien/	
Cook	1
*Crawford	2
Dade	2
De Kalb	
Service Area: South Decatur/Candler/	
McAfee	1
*Dodge	4
*Dooly	3
Dougherty	
Service Area: East Albany	1
Service Area: South Albany	1
Effingham	3
*Elbert	3
*Emanuel	3
Fannin	
Service Area: Fannin/Suches	4
Fulton	
Service Area: Atlanta/Southside	1
Service Area: West Atlanta	1
Population Group: Pov. Pop.—Palmet-	
to	1
*Gilmer	2
*Glascock	1
*Greene	2
*Hall	
Population Group: Med. Ind. Pop.—	
Hall Co.	1
*Hancock	2
Henry	3
*Irwin	2
Jackson	3
*Jasper	2
*Jeff Davis	
Population Group: Med. Ind. Pop.—Jeff	
Davis Co.	1
*Johnson	1
*Lamar	4
Lee	1
*Liberty	2
*Lincoln	3
*Long	1
*Lumpkin	4
*Macon	3
Madison	2
McDuffie	4
*Meriwether	2
*Mitchell	3
Montgomery	
Service Area: Montgomery/Wheeler	2
*Morgan	2
*Murray	4
*Olgethorpe	1
Paulding	4
*Pierce	4
*Pike	1
*Polk	2

PRIMARY CARE: Georgia—Continued

County Listing

County Name	Degree of shortage group
*Putnam	1
*Schley	1
*Stewart	
Service Area: Stewart/Webster	1
*Sumter	
Population Group: Pov. Pop.—Sumter	
Co.	1
*Talbot	1
*Taliaferro	1
*Tattnall	2
*Taylor	4
*Telfair	4
*Terrell	3
*Tift	
Population Group: Mig. Pop.—Tift/	
Turner	1
*Towns	
Population Group: Pov. Pop.—Towns	
Co.	2
*Turner	
Population Group: Mig. Pop.—Tift/	
Turner	1
*Twiggs	1
*Union	
Service Area: Fannin/Suches	4
Walker	
Service Area: Lafayette	3
Walton	2
*Warren	2
*Webster	
Service Area: Stewart/Webster	1
Wheeler	
Service Area: Montgomery/Wheeler	2
*Whitfield	
Population Group: Pov. Pop.—Whitfield	
Co.	3
*Wilcox	1
*Wilkinson	2
*Worth	4

PRIMARY CARE: Georgia

Service Area Listing

Service Area Name	Degree of shortage group
Atlanta/Southside	1
County—Fulton	
Parts:	
C.T. 44	
C.T. 46.95	
C.T. 48	
C.T. 49.95	
C.T. 50	
Population Group: C.T. 52-53	
C.T. 55.01-55.02	
C.T. 56-58	
C.T. 63-64	
C.T. 67	
C.T. 68.01-68.02	
C.T. 69-73	
East Albany	1
County—Dougherty	
Parts:	
C.T. 1-2	
C.T. 101-102	
C.T. 103.01-103.02	
C.T. 107-110	
Fannin/Suches	4

PRIMARY CARE: Georgia—Continued*Service Area Listing*

Service Area Name	Degree of shortage group
County—Fannin	
County—Union	
Parts:	
Suches CCD	
Lafayette	3
County—Walker	
Parts:	
Kensington CCD	
Lafayette CCD	
Rock Springs CCD	
Villanow CCD	
Montgomery/Wheeler	2
County—Montgomery	
County—Wheeler	
Pembroke	1
County—Bryan	
Parts:	
C.T. 201 (Pembroke CCD)	
South Albany	1
County—Dougherty	
Parts:	
C.T. 12 (Pembroke CCD)	
C.T. 14.01–14.02	
C.T. 15	
C.T. 106.01–106.02	
South Decatur/Candler/McAfee	1
County—De Kalb	
Parts:	
C.T. 205–209	
C.T. 227	
C.T. 231.01	
C.T. 235.01–235.02	
C.T. 236–237	
Stewart/Webster	1
County—Stewart	
County—Webster	
West Atlanta	1
County—Fulton	
Parts:	
C.T. 8	
C.T. 22–26	
C.T. 36–41	
C.T. 42.95	
C.T. 43	
C.T. 60–62	
C.T. 66.20	
C.T. 78.04	
C.T. 80	
C.T. 81.01–81.02	
C.T. 82.01–82.02	
C.T. 83.01–83.02	
C.T. 84–85	
C.T. 86.01–86.02	
C.T. 87.01–87.02	

PRIMARY CARE: Georgia*Population Group Listing*

Population Group	Degree of shortage group
Med. Ind. Pop.—Hall Co.	1
County—Hall	
Parts:	
Med. Ind. Pop.	
Med. Ind. Pop.—Jeff Davis Co.	1
County—Jeff Davis	
Mig. Pop.—Berrien/Cook	1
County—Berrien	
Parts:	
Mig. Pop.	

PRIMARY CARE: Georgia—Continued*Population Group Listing*

Population Group	Degree of shortage group
County—Cook	
Parts:	
Mig. Pop.	
Mig. Pop.—Tift/Turner	1
County—Tift	
Parts:	
Mig. Pop.	
County—Turner	
Parts:	
Mig. Pop.	
Pov. Pop.—N.W. Savannah	2
County—Chatham	
Parts:	
C.T. 1	
C.T. 3	
C.T. 6.01–6.02	
C.T. 8–13	
C.T. 15	
C.T. 17–28	
C.T. 32	
C.T. 33.01–33.02	
C.T. 36.01	
C.T. 37	
C.T. 45	
C.T. 106.04	
Pov. Pop.—Palmetto	1
County—Fulton	
Parts:	
C.T. 104	
C.T. 105.04–105.06	
Pov. Pop.—Sumter Co.	1
County—Sumter	
Parts:	
Pov. Pop.	
Pov. Pop.—Towns Co.	2
County—Towns	
Parts:	
Pov. Pop.	
Pov. Pop.—Whitfield Co.	3
County—Whitfield	
Parts:	
Pov. Pop.	
Pov. Pop. Of The Athens NHC	1
County—Clarke	
Parts:	
C.T. 1–7	
C.T. 9–10	

PRIMARY CARE: Hawaii*County Listing*

County Name	Degree of shortage group
Honolulu	
Service Area: Kalihi Valley	1
Facility: Oahu Comm. Corr. Ctr.	2

PRIMARY CARE: Hawaii*Service Area Listing*

Service Area Name	Degree of shortage group
Kalihi Valley	1
County—Honolulu	
Parts:	
C.T. 63–66	

PRIMARY CARE: Hawaii*Facility Listing*

Facility Name	Degree of shortage group
Oahu Comm. Corr. Ctr.	2
County—Honolulu	

PRIMARY CARE: Idaho*County Listing*

County Name	Degree of shortage group
Ada	
Facility: Idaho State Pen.	1
*Bannock	
Service Area: Lava Hot Springs	1
Service Area: Malad City/Downey	2
*Benewah	
Service Area: St. Maries	4
*Bingham	
Service Area: American Falls	1
Population Group: MSFW—E. Snake	
River Valley	1
*Boise	1
*Bonner	
Service Area: Priest River	4
*Butte	
Service Area: Arco/Mackay	2
*Camas	1
*Canyon	
Service Area: Nyssa	1
Population Group: MSFW—S. Treasure	
Valley	1
*Caribou	2
*Cassia	
Service Area: Albion/Malta	1
Service Area: Oakley	1
Population Group: MSFW—E. Magic	
Valley	1
*Clark	1
*Custer	
Service Area: Arco/Mackay	2
Service Area: Challis	1
Service Area: Stanley	1
*Elmore	
Service Area: Glenns Ferry	1
*Franklin	3
*Fremont	3
*Gem	4
Population Group: MSFW—N. Treas-	
ure Valley (Id/Ut)	1
*Gooding	2
Population Group: MSFW—W. Magic	
Valley	1
*Jefferson	
Service Area: Mud Lake	1
Population Group: MSFW—E. Snake	
River Valley	1
*Jerome	
Population Group: MSFW—W. Magic	
Valley	1

PRIMARY CARE: Idaho—Continued

County Listing

County Name	Degree of shortage group
*Kootenai	
Service Area: Spirit Lake/Athol.....	2
Service Area: St. Maries.....	4
*Lewis.....	4
*Lincoln.....	1
*Minidoka	
Population Group: MSFW—E. Magic Valley.....	1
Oneida	
Service Area: Malad City/Downey.....	2
*Owyhee	
Service Area: Grand View/Bruneau.....	1
Service Area: N.W. Owyhee.....	1
Population Group: MSFW—S. Treasure Valley.....	1
*Payette	
Service Area: New Plymouth.....	1
Population Group: MSFW—N. Treasure Valley (Id/Ut).....	1
*Power	
Service Area: American Falls.....	1
Population Group: MSFW—E. Magic Valley.....	1
*Teton.....	1
*Twin Falls	
Service Area: Buhl.....	2
Population Group: MSFW—W. Magic Valley.....	1
*Washington	
Population Group: MSFW—N. Treasure Valley (Id/Ut).....	1

PRIMARY CARE: Idaho

Service Area Listing

Service Area Name	Degree of shortage group
Albion/Malta.....	1
County—Cassia	
Parts:	
*Albion Div.	
American Falls.....	1
County—Bingham	
Parts:	
*Aberdeen Div.	
County—Power	
Parts:	
*American Falls Div.	
*Rockland Div.	
Arco/Mackay.....	2
County—Butte	
County—Custer	
Parts:	
*Mackay Div.	
Buhl.....	2
County—Twin Falls	
Parts:	
*Buhl Div.	
*W. Salmon Falls Div.	
Challis.....	1
County—Custer	
Parts:	
*Challis Div.	
Glenns Ferry.....	1
County—Elmore	
Parts:	
*Glenns Ferry Div.	
Grand View/Bruneau.....	1

PRIMARY CARE: Idaho—Continued

Service Area Listing

Service Area Name	Degree of shortage group
County—Owyhee	
Parts:	
*Bruneau CCD	
*Grand View CCD	
Lava Hot Springs.....	1
County—Bannock	
Parts:	
E.D. 1137-1142 (S.Bannock CCD)	
E.D. 1144-1149 (S.Bannock CCD)	
E.D. 1152-1153 (S.Bannock CCD)	
Malad City/Downey.....	2
County—Bannock	
Parts:	
E.D. 1143 (S.Bannock CCD)	
E.D. 1150-1151 (S.Bannock CCD)	
E.D. 1157 (S.Bannock CCD)	
County—Oneida	
Mud Lake.....	1
County—Jefferson	
Parts:	
*Hamer Div.	
N.W. Owyhee.....	1
County—Owyhee	
Parts:	
*Homedale Div.	
*Marsing Div.	
*Murphy Div.	
New Plymouth.....	1
County—Payette	
Parts:	
*New Plymouth Div.	
Nyssa.....	1
County—Canyon	
Parts:	
*Parma Div.	
*Wilder Div.	
Oakley.....	1
County—Cassia	
Parts:	
*Oakley Div.	
Priest River.....	4
County—Bonner	
Parts:	
Priest River Div.	
E.D. 555.63	
Spirit Lake/Athol.....	2
County—Kootenai	
Parts:	
Spirit Lake-Athol CCD	
St. Maries.....	4
County—Benewah	
County—Kootenai	
Parts:	
*Harrison Div. (S. 1/2)	
*Worley Div.	
Stanley.....	1
County—Custer	
Parts:	
*Stanley Div.	

PRIMARY CARE: Idaho

Population Group Listing

Population Group	Degree of shortage group
MSFW—E. Magic Valley.....	1
County—Cassia	
Parts:	
MSFW Pop.	
County—Minidoka	
Parts:	
MSFW Pop.	
County—Power	
Parts:	
MSFW Pop.	
MSFW—E. Snake River Valley.....	1
County—Bingham	
Parts:	
MSFW Pop.	
County—Jefferson	
Parts:	
MSFW Pop.	
MSFW—N. Treasure Valley (Id/Ut).....	1
County—Gem 4	
Parts:	
MSFW	
County—Payette	
Parts:	
MSFW	
County—Washington 4	
Parts:	
MSFW	
MSFW—S. Treasure Valley.....	1
County—Canyon	
Parts:	
MSFW Pop.	
County—Owyhee	
Parts:	
MSFW Pop.	
MSFW—W. Magic Valley.....	1
County—Gooding 2	
Parts:	
MSFW Pop.	
County—Jerome	
Parts:	
MSFW Pop.	
County—Twin Falls	
Parts:	
MSFW Pop.	

PRIMARY CARE: Idaho

Facility Listing

Facility Name	Degree of shortage group
Idaho State Pen.	
County—Ada	1

PRIMARY CARE: Illinois

County Listing

County Name	Degree of shortage group
Alexander	
Service Area: Cairo.....	1
*Brown.....	2
*Carroll.....	4
*Cass.....	2

PRIMARY CARE: Illinois—Continued		PRIMARY CARE: Illinois		PRIMARY CARE: Illinois—Continued	
County Listing		Service Area Listing		Service Area Listing	
County Name	Degree of shortage group	Service Area Name	Degree of shortage group	Service Area Name	Degree of shortage group
Champaign		Austin/Garfield.....	1	C.T. 2401 (West Town)	
Service Area: Northend Champaign-Urbana.....	1	County—Cook		C.T. 2401-2436	
*Clay.....	3	Parts:		New City/W. Englewood/Englewood.....	1
Cook		C.T. 2508-2510		County—Cook	
Service Area: Austin/Garfield.....	1	C.T. 2514-2523		Parts:	
Service Area: Cabrini Green/Near North Side.....	2	C.T. 2601-2610		C.T. 6101-6122	
Service Area: Chatham (Near Southeast).....	1	C.T. 2701-2719		C.T. 6701-6720	
Service Area: Douglas/Armour Square/Near South Side.....	1	C.T. 2801-2828		C.T. 6901-6814	
Service Area: Humboldt Park/West Town.....	2	C.T. 2836-2843		Northend Champaign-Urbana.....	1
Service Area: New City/W. Englewood/Englewood.....	1	C.T. 2843		County—Champaign	
Service Area: Riverdale.....	1	C.T. 2901-2927		Parts:	
Service Area: Roseland.....	1	Cabrin Green/Near North Side.....	2	C.T. 2	
Service Area: S. Lawndale/Lower W. Side.....	2	County—Cook		C.T. 7	
Service Area: South Chicago.....	3	Parts:		C.T. 53	
Service Area: South Deering.....	1	C.T. 603-810		Pembroke.....	1
Service Area: South Shore.....	1	C.T. 817-819		County—Kankakee	
Service Area: Southeast Chicago.....	1	Cairo.....	1	Parts:	
Service Area: Uptown.....	4	County—Alexander		Pembroke Twp.	
Facility: Cook Co. Dept. Of Corr. Comp.....	2	County—Pulaski		St. Anne Twp. (E 1/3)	
Facility: Fantus Clinic-Cook Co Hosp.....	1	Chatham (Near Southeast).....	1	Riverdale.....	1
*Cumberland.....	3	County—Cook		County—Cook	
*Edwards.....	4	Parts:		Parts:	
*Fayette.....	2	C.T. 4401-4409		C.T. 5401	
*Franklin.....	4	C.T. 4501-4503		Rockford Inner City.....	1
*Gallatin.....	4	C.T. 4701		County—Winnebago	
*Hamilton.....	3	C.T. 6901-6915		Parts:	
*Henderson.....	2	C.T. 7101-7115		C.T. 10	
*Jackson		Decatur Inner City.....	2	C.T. 21	
Population Group: Med. Ind. Pop.—Jackson Co.....	1	County—Macon		C.T. 24-29	
*Jasper.....	3	Parts:		Roseland.....	1
*Jo Daviess		C.T. 1		County—Cook	
Service Area: Galena/Hanover.....	3	C.T. 6-9		Parts:	
Service Area: Stockton/Warren.....	2	Douglas/Armour Square/Near South Side.....	1	C.T. 4901-4914	
*Johnson.....	3	County—Cook		S. Lawndale/Lower W. Side.....	2
Kankakee		Parts:		County—Cook	
Service Area: Pembroke.....	1	C.T. 3301-3305		Parts:	
Macon		C.T. 3401-3408		C.T. 3001-3020	
Service Area: Decatur Inner City.....	2	C.T. 3501-3515		C.T. 3101-3115	
*Mason.....	4	East St. Louis.....	1	South Chicago.....	3
*Massac.....	4	County—St. Clair		County—Cook	
*Mercer.....	3	Parts:		Parts:	
*Pope.....	1	C.T. 4007		C.T. 4601-4610	
Pulaski		C.T. 5004-5006		South Deering.....	1
Service Area: Cairo.....	1	C.T. 5008-5014		County—Cook	
*Scott.....	2	C.T. 5021-5022		Parts:	
St. Clair		C.T. 5024.01		C.T. 5101-5104	
Service Area: East St. Louis.....	1	C.T. 5024.03-5024.04		C.T. 5104.99-5105.00	
*Union.....	2	C.T. 5025		South Shore.....	1
*Wayne.....	2	C.T. 5027-5030		County—Cook	
Will		C.T. 5041		Parts:	
Service Area: Eastside Joliet.....	1	C.T. 5042.01-5042.02		C.T. 4301-4314	
Facility: Joliet Corr. I.....	3	Eastside Joliet.....	1	Southeast Chicago.....	1
Winnebago		County—Will		County—Cook	
Service Area: Rockford Inner City.....	1	Parts:		Parts:	
		C.T. 8812-8813		C.T. 3601-3605	
		C.T. 8820-8821		C.T. 3701-3704	
		C.T. 8824-8825		C.T. 3801-3820	
		Galena/Hanover.....	3	C.T. 3901-3903	
		County—Jo Daviess		C.T. 4001-4008	
		Parts:		Stockton/Warren.....	2
		*Council Hill Twp.		County—Jo Daviess	
		*East Galena Twp.		Parts:	
		*Elizabeth Twp.		*Apple River Twp.	
		*Guilford Twp.		*Bereman Twp.	
		*Hanover Twp.		*Derinda Twp.	
		*Rawlins Twp.		*Nora Twp.	
		*Rice Twp.		*Pleasant Valley Twp.	
		*Scales Mound Twp.		*Rush Twp.	
		*Vinegar Hill Twp.		*Stockton Twp.	
		*West Galena Twp.		*Thompson Twp.	
		Humboldt Park/West Town.....	2	*Wards Grove Twp.	
		County—Cook		*Warren Twp.	
		Parts:		*Woodbine Twp.	
		C.T. 2301-2316		Uptown.....	4
		C.T. 2316-2317 (West Town)			

PRIMARY CARE: Illinois—Continued*Service Area Listing*

Service Area Name	Degree of shortage group
County—Cook Parts: C.T. 310-313 C.T. 315-321	

PRIMARY CARE: Illinois*Population Group Listing*

Population Group	Degree of shortage group
Med. Ind. Pop.—Jackson Co.	1
County—Jackson Parts: Med. Ind. Pop.	
Medicaid—Quad-Cities (Ia/Ill)	0
Parts: Medicaid-Eligible	

PRIMARY CARE: Illinois*Facility Listing*

Facility Name	Degree of shortage group
Cook Co. Dept. Of Corr. Comp.	2
County—Cook Dept. Of Corr. Cmp.	
Fantus Clinic-Cook Co Hosp	1
County—Cook	
Joliet Corr. I.	3
County—Will	

PRIMARY CARE: Indiana*County Listing*

County Name	Degree of shortage group
*Adams	4
*Brown	3
*Crawford	
Service Area: English	4
Service Area: Fredricksburg	3
*Franklin	2
*Fulton	4
Harrison	
Service Area: Elizabeth	1
Service Area: Fredricksburg	3
Hendricks	
Facility: Indiana Youth/Diagnostic Center	1
Howard	
Population Group: Med. Ind. Pop.—Kokomo	1
*Jennings	3
*Knox	
Service Area: Bicknell	2
*La Porte	
Facility: Westville Corr. C.	2
Lake	
Service Area: Gary	3

PRIMARY CARE: Indiana—Continued*County Listing*

County Name	Degree of shortage group
Marion	
Service Area: Highland-Brookside (Indianapolis)	1
Service Area: Near North Side (Indianapolis)	1
Service Area: South Central Indianapolis	1
*Ohio	2
*Owen	2
*Perry	4
Facility: Branchville Training C.	2
*Pike	2
*Putnam	
Facility: Indiana State Farm	3
*Ripley	
Service Area: Osgood/Versailles	2
*Scott	3
*Spencer	2
St Joseph	
Service Area: Southwest South Bend	1
*Starke	4
*Vermillion	
Service Area: Northern Vermillion	1
*Warren	3
*Washington	
Service Area: Fredricksburg	3
Service Area: Salem	3

PRIMARY CARE: Indiana*Service Area Listing*

Service Area Name	Degree of shortage group
Bicknell	2
County—Knox	
Parts: Vigo Twp. Washington Twp. (E. 1/2) Widner Twp.	
Elizabeth	1
County—Harrison	
Parts: Boone Twp. Posey Twp. Taylor Twp.	
English	4
County—Crawford	
Parts: *Boone Twp. *Jennings Twp. *Johnson Twp. *Ohio Twp. *Patoka Twp. *Sterling Twp. *Union Twp.	
Fredricksburg	3
County—Crawford	
Parts: *Liberty Twp. *Whiskey Run Twp.	
County—Harrison	
Parts: Blue River Twp. Morgan Twp.	
County—Washington	
Parts: *Posey Twp.	
Gary	3

PRIMARY CARE: Indiana—Continued*Service Area Listing*

Service Area Name	Degree of shortage group
County—Lake	
Parts: C.T. 103-120 C.T. 122-129 C.T. 411-412	
Highland-Brookside (Indianapolis)	1
County—Marion	
Parts: C.T. 3526-3527 C.T. 3544-3545 C.T. 3547-3551	
Near North Side (Indianapolis)	1
County—Marion	
Parts: C.T. 3517 C.T. 3519 C.T. 3521 C.T. 3528 C.T. 3531-3532	
Northern Vermillion	1
County—Vermillion	
Parts: Eugene Twp. Highland Twp. Vermillion Twp.	
Osgood/Versailles	2
County—Ripley	
Parts: Brown Twp. Center Twp. Johnson Twp. Otter Creek Twp. Shelby Twp. Washington Twp.	
Salem	3
County—Washington	
Parts: *Brown Twp. *Franklin Twp. *Gibson Twp. *Howard Twp. *Jackson Twp. *Jefferson Twp. *Madison Twp. *Monroe Twp. *Pierce Twp. *Polk Twp. *Vernon Twp. *Washington Twp.	
South Central Indianapolis	1
County—Marion	
Parts: C.T. 3556-3557 C.T. 3559 C.T. 3562 C.T. 3569-3572 C.T. 3578-3580	
Southwest South Bend	1
County—St Joseph	
Parts: C.T. 6 C.T. 17-24 C.T. 27 C.T. 29-30	

PRIMARY CARE: Indiana*Population Group Listing*

Population Group	Degree of shortage group
Med. Ind. Pop.—Kokomo.....	1
County—Howard	

PRIMARY CARE: Indiana*Facility Listing*

Facility Name	Degree of shortage group
Branchville Training C.	2
County—Perry 4	
Indiana State Farm	3
County—Putnam	
Indiana Youth/Diagnostic Center.....	1
County—Hendricks	
Westville Corr. C.	2
County—La Porte	

PRIMARY CARE: Iowa*County Listing*

County Name	Degree of shortage group
*Adair	
Service Area: Redfield.....	2
*Allamakee	
Service Area: Caledonia/Spring Grove (Iowa/Minn).....	3
*Benton	
Service Area: North Benton.....	3
Black Hawk	
Population Group: Medicaid Pop.—Blackhawk Co.	4
*Boone	
Service Area: Dayton/Gowrie.....	2
Bremer	
Service Area: Sumner/Tripoli.....	2
*Buchanan	4
*Butler	2
*Calhoun	
Service Area: Dayton/Gowrie.....	2
*Cedar	
Service Area: Lowden/Lost Nation.....	2
*Cherokee	
Service Area: Kingsley/Anthon/Mapleton.....	4
*Clinton	
Service Area: Lowden/Lost Nation.....	2
Dallas	
Service Area: Redfield.....	2
*Davis	2
*Delaware	
Service Area: Central City.....	2
*Fayette	
Service Area: South Fayette.....	4
*Greene	
Service Area: Dayton/Gowrie.....	2
*Grundy	
Service Area: Grundy	3
*Guthrie	
Service Area: Redfield.....	2
*Hamilton	
Service Area: Dayton/Gowrie.....	2
Service Area: Hubbard/Eldora.....	3
*Hardin	
Service Area: Hubbard/Eldora.....	3

PRIMARY CARE: Iowa—Continued*County Listing*

County Name	Degree of shortage group
*Harrison	
Service Area: Onawa (Iowa/Neb).....	2
*Jackson	
Service Area: Lowden/Lost Nation.....	2
*Jasper	
Service Area: Monroe.....	1
*Jones	
Service Area: Lowden/Lost Nation.....	2
*Kossuth	
Service Area: North Kossuth.....	2
Linn	
Service Area: Central City.....	2
*Louisa	
Service Area: Columbus/Wapello.....	4
*Lucas	4
*Lyon	
Service Area: Rock Rapids.....	2
*Madison	
Service Area: Redfield.....	2
*Marion	
Service Area: Monroe.....	1
*Mills	2
*Monona	
Service Area: Kingsley/Anthon/Mapleton.....	4
Service Area: Onawa (Iowa/Neb).....	2
*Muscatine	
Service Area: Columbus/Wapello.....	4
*Plymouth	
Service Area: Kingsley/Anthon/Mapleton.....	4
Service Area: Le Mars/Akron.....	3
Pottawattamie	
Service Area: Oakland.....	2
Scott	
Service Area: Lowden/Lost Nation.....	2
Population Group: Medicaid—Quad-Cities (Ia/Ill)	4
*Story	
Service Area: Hubbard/Eldora.....	3
*Tama	3
*Taylor	2
*Webster	
Service Area: Dayton/Gowrie.....	2
*Winnebago	
Service Area: Caledonia/Spring Grove (Iowa/Minn).....	3
Woodbury	
Service Area: Kingsley/Anthon/Mapleton.....	4
Service Area: Onawa (Iowa/Neb).....	2

PRIMARY CARE: Iowa*Service Area Listing*

Service Area Name	Degree of shortage group
Caledonia/Spring Grove (Iowa/Minn).....	3
County—Allamakee	
Parts:	
*Waterloo Twp.	
County—Winnebago	
Parts:	
*Highland Twp.	
Central City	2
County—Delaware	
Parts:	
Adams Twp.	
Hazel Green Twp.	

PRIMARY CARE: Iowa—Continued*Service Area Listing*

Service Area Name	Degree of shortage group
County—Linn	
Parts:	
Boulder Twp.	
Buffalo Twp.	
Jackson Twp.	
Maine Twp.	
Spring Grove Twp.	
Columbus/Wapello	4
County—Louisa	
Parts:	
Columbus City Twp.	
Concord Twp.	
Elm Grove Twp.	
Grandview Twp.	
Jefferson Twp.	
Marshall Twp.	
Oakland Twp.	
Port Louisa Twp.	
Union Twp.	
Wapello Twp.	
County—Muscatine	
Parts:	
Cedar Twp.	
Orono Twp.	
Dayton/Gowrie	2
County—Boone	
Parts:	
Dodge Twp.	
Grant Twp.	
Pilot Mound Twp.	
County—Calhoun	
Parts:	
Reading Twp.	
County—Greene	
Parts:	
Dawson Twp.	
Paton Twp.	
County—Hamilton	
Parts:	
Marion Twp.	
Webster Twp.	
County—Webster	
Parts:	
Burnside Twp.	
Clay Twp.	
Dayton Twp.	
Gowrie Twp.	
Hardin Twp.	
Lost Grove Twp.	
Roland Twp.	
Sumner Twp.	
Webster Twp.	
Yell Twp.	
Grundy	3
County—Grundy	
Parts:	
Beaver Twp.	
Blackhawk Twp.	
Colfax Twp.	
Grant Twp.	
Lincoln Twp.	
Melrose Twp.	
Palmero Twp.	
Pleasant Valley Twp.	
Shiloh Twp.	
Washington Twp.	
Hubbard/Eldora.....	3
County—Hamilton	
Parts:	
Ellsworth Twp.	
Lincoln Twp.	
Lyon Twp.	
Scott Twp.	
County—Hardin	
Parts:	
Concord Twp.	

PRIMARY CARE: Iowa—Continued

Service Area Listing

Service Area Name	Degree of shortage group
Eldora Twp. Eldora City Grant Twp. Pleasant Twp. Providence Twp. Sherman Twp. Tipton Twp. Union Twp. (W. 1/2) County—Story Parts: Lincoln Twp. Warren Twp. (E. 1/2) Kingsley/Anthon/Mapleton.....	4
County—Cherokee Parts: Grand Meadow Twp. County—Monona Parts: Cooper Twp. Grant Twp. Maple Twp. County—Plymouth Parts: Elkhorn Twp. Garfield Twp. County—Woodbury Parts: Arlington Twp. Banner Twp. Floyd Twp. Grange Twp. Grant Twp. Kedron Twp. Liston Twp. Little Sioux Twp. Miller Twp. Morgan Twp. Merville Twp. Oto Twp. Rock Twp. Rutland Twp. Union Twp. West Fork Twp. Willow Twp. (N 1/2) Wolf Creek Twp. Le Mars/Akron.....	3
County—Plymouth Parts: America Twp. Elgin Twp. Fredonia Twp. Grant Twp. Henry Twp. Johnson Twp. Liberty Twp. Marion Twp. Meadow Twp. Plymouth Twp. Portland Twp. Preston Twp. Remsen Twp. Sioux Twp. Stanton Twp. Union Twp. Washington Twp. Westfield Twp. Lowden/Lost Nation.....	2
County—Cedar Parts: Inland Twp. Massillon Twp. Springfield Twp. County—Clinton Parts: Liberty Twp. Sharon Twp.	

PRIMARY CARE: Iowa—Continued

Service Area Listing

Service Area Name	Degree of shortage group
Spring Rock Twp. County—Jackson Parts: Monmouth Twp. County—Jones Parts: Oxford Twp. Wyoming Twp. County—Scott Parts: Liberty Twp. Monroe.....	1
County—Jasper Parts: Fairview Twp. Palo Alto Twp. County—Marion Parts: Red Rock Twp. Summit Twp. North Benton.....	3
County—Benton Parts: Benton Twp. Big Grove Twp. Bruce Twp. Canton Twp. Cedar Twp. Eden Twp. Harrison Twp. Homer Twp. Jackson Twp. Monroe Twp. Polk Twp. Shellsburg Twp. Taylor Twp. Vinton Twp. North Kossuth.....	2
County—Kossuth Parts: Buffalo Twp. Burt Twp. Eagle Twp. Fenton Twp. German Twp. Grant Twp. Greenwood Twp. Harrison Twp. Hebron Twp. Ledyard Twp. Lincoln Twp. Portland Twp. Ramsey Twp. Seneca Twp. Springfield Twp. Swea Twp. Oakland.....	2
County—Pottawattamie Parts: Belknap Twp. Carson Twp. Center Twp. Grove Twp. James Twp. Knox Twp. Layton Twp. Lincoln Twp. Macedonia Twp. Pleasant Twp. Silver Creek Twp. Valley Twp. Washington Twp. Waveland Twp. Wright Twp. Onawa (Iowa/Neb).....	2

PRIMARY CARE: Iowa—Continued

Service Area Listing

Service Area Name	Degree of shortage group
County—Harrison Parts: Jackson Twp. Little Sioux Twp. County—Monona Parts: Ashton Twp. Belvidere Twp. Center Twp. Fairview Twp. Franklin Twp. Jordan Twp. Kennebec Twp. Lake Twp. Lincoln Twp. Onawa City Sherman Twp. Sioux Twp. Soldier Twp. Spring Valley Twp. St. Clair Twp. West Fork Twp. Willow Twp. County—Woodbury Parts: Lakeport Twp. Sloan Twp. Willow Twp. Redfield.....	2
County—Adair Parts: Lincoln Twp. County—Dallas Parts: Linn Twp. Union Twp. County—Guthrie Parts: Penn Twp. Stuart Twp. County—Madison Parts: Madison Twp. Penn Twp. Rock Rapids.....	2
County—Lyon Parts: Allison Twp. Cleveland Twp. Dale Twp. Doon Twp. Elgin Twp. Garfield Twp. Grant Twp. Larchwood Twp. Liberal Twp. Midland Twp. Riverside Twp. Rock Twp. Sioux Twp. Wheeler Twp. South Fayette.....	4
County—Fayette Parts: Fairfield Twp. Fremont Twp. Harlan Twp. Jefferson Twp. Oran Twp. Putman Twp. Scott Twp. Smithfield Twp. Sumner/Tripoli.....	2
County—Bremer Parts: Dayton Twp.	

PRIMARY CARE: Iowa—Continued*Service Area Listing*

Service Area Name	Degree of shortage group
Frederika Twp. Fremont Twp. Le Roy Twp. Sumner City Sumner2 Twp.	

PRIMARY CARE: Iowa*Population Group Listing*

Population Group	Degree of shortage group
Medicaid—Quad-Cities (Ia/II) County—Scott Parts: Medicaid-Eligible	4
Medicaid Pop.—Blackhawk Co. County—Black Hawk Parts: Medicaid Eligible	4

PRIMARY CARE: Kansas*County Listing*

County Name	Degree of shortage group
*Coffey	2
*Dickinson Service Area: Herington	2
*Ellsworth	4
*Geary	4
*Gove Service Area: Oakley	3
*Jackson	3
*Kearny	2
Leavenworth Population Group: Med. Ind. Pop.— Lansing	3
*Lincoln	3
*Linn	3
*Logan Service Area: Oakley	3
*Marion Service Area: Herington	2
*Marshall Service Area: Centralia	2
*Morris Service Area: Herington	2
*Nemaha Service Area: Centralia	2
*Osage	3
*Rawlins	3
Sedgwick Population Group: Medicaid—N.E. Wichita	4
*Sheridan Service Area: Oakley	3
*Thomas Service Area: Oakley	3
*Wabaunsee	3
*Washington	4
*Woodson	2

PRIMARY CARE: Kansas*Service Area Listing*

Service Area Name	Degree of shortage group
Centralia	2
County—Marshall Parts: *Cleveland Twp. *Lincoln Twp. *Noble Twp.	
County—Nemaha Parts: *Center Twp. *Harrison Twp. *Home Twp. *Illinois Twp. *Neuchatel Twp. *Red Vermillion Twp. *Reilly Twp. *Wetmore Twp.	
Herington	2
County—Dickinson Parts: *Herington City *Hope Twp. *Liberty Twp. *Lyon Twp. *Ridge Twp. *Union Twp.	
County—Marion Parts: *Blaine *Clear Creek *Colfax *Lost Spring	
County—Morris Parts: *Hogland Twp. *Overland Twp. *Township 4 (parkerville) *Township 5 (white City) *Township 6 (latimer) *Township 7 *Township 8 *Township 9 (wilsey)	
Oakley	3
County—Gove Parts: Gaeland Twp. Grinnell Twp.	
County—Logan Parts: Elkader Twp. Logansport Twp. McAllaster Twp. Monument Twp. Oakley Twp. Russell Springs Twp. Western Twp. Winoni Twp.	
County—Sheridan Parts: Solomon Twp.	
County—Thomas Parts: South Randall Twp. Summers Twp.	

PRIMARY CARE: Kansas*Population Group Listing*

Population Group	Degree of shortage group
Med. Ind. Pop.—Lansing	3
County—Leavenworth Parts: Lansing City Leavenworth City	
Medicaid—N.E. Wichita County—Sedgwick Parts: C.T. 6-9 C.T. 18 C.T. 25-26 C.T. 41-42 C.T. 78	4

PRIMARY CARE: Kentucky*County Listing*

County Name	Degree of shortage group
*Adair	4
*Bell Service Area: Southeast Whitley	1
Service Area: Western Harlan	1
*Breathitt	4
*Butler	3
Campbell Service Area: Pov. Pop.—Inner City Newport	1
*Carroll	4
Carter	1
*Casey	4
*Clay Service Area: Manchester	1
*Clinton	2
*Elliott	4
*Estill	4
Fayette Population Group: Pov. Pop.—N. Central Lexington	4
*Floyd Service Area: Mud Creek	1
*Gallatin	2
*Hancock	2
*Harlan Service Area: Cumberland	4
Service Area: Western Harlan	1
*Henry	2
*Jackson	2
Jefferson Service Area: West End (Louisville)	1
*Knott	2
*Knox	4
*Laurel	4
*Letcher Service Area: Western Letcher	1
*Lewis Service Area: Vanceburg	3
*Lincoln Service Area: Crab Orchard	1
*Magoffin	1
*McLean	4
*Meade	2
*Menifee	2
Oldham Facility: Ky. State Ref.	3
*Owen	4
*Owsley	1
*Perry Service Area: Buckhorn	1
Service Area: Western Letcher	1

PRIMARY CARE: Kentucky—Continued

County Listing

County Name	Degree of shortage group
*Pike	
Service Area: Mud Creek	1
Service Area: Phelps	1
*Powell	2
*Robertson	1
*Russell	3
*Spencer	1
*Whitley	
Service Area: Southeast Whitley	1
*Wolfe	4

PRIMARY CARE: Kentucky

Service Area Listing

Service Area Name	Degree of shortage group
Buckhorn	1
County—Perry	
Parts:	
*Buckhorn CCD	
*Krypton CCD (E.D. 302)	
Crab Orchard	1
County—Lincoln	
Parts:	
*Crab Orchard CCD	
Cumberland	4
County—Harlan	
Parts:	
Cumberland CCD	
Manchester	1
County—Clay	
Parts:	
*Big Creek CCD	
*Borning Springs CCD	
*Manchester CCD	
*Oneida CCD	
*Sibert-Hima CCD	
Mud Creek	1
County—Floyd	
Parts:	
*McDowell CCD	
*Mud Creek CCD	
*Wheelwright-Weeksbury CCD	
County—Pike	
Parts:	
*Long Fork CCD	
Phelps	1
County—Pike	
Parts:	
*Feds Creek CCD	
*Phelps CCD	
Pov. Pop.—Inner City Newport	1
County—Campbell	
Parts:	
C.T. 501-506	
Southeast Whitley	1
County—Bell	
Parts:	
*Pruden-Fonde CCD	
County—Whitley	
Parts:	
*Pearl CCD	
*Saxton CCD	
*Siller CCD	
Vanceburg	3
County—Lewis	
Parts:	
*Garrison CCD	
*Laurel/Petersville CCD	
*Vanceburg CCD	

PRIMARY CARE: Kentucky—Continued

Service Area Listing

Service Area Name	Degree of shortage group
West End (Louisville)	1
County—Jefferson	
Parts:	
C.T. 1-30	
C.T. 32-35	
Western Harlan	1
County—Bell	
Parts:	
*Tejay CCD	
County—Harlan	
Parts:	
*Alva CCD	
Western Letcher	1
County—Letcher	
Parts:	
*Blackey CCD	
County—Perry	
Parts:	
*Daisy CCD	

PRIMARY CARE: Kentucky

Population Group Listing

Population Group	Degree of shortage group
Pov. Pop.—N. Central Lexington	4
County—Fayette	
Parts:	
C.T. 1-5	
C.T. 8-14	
C.T. 18-19	
C.T. 38.01	

PRIMARY CARE: Kentucky

Facility Listing

Facility Name	Degree of shortage group
Ky. State Ref.	3
County—Oldham	

PRIMARY CARE: Louisiana

Parish Listing

Parish Name	Degree of shortage group
*Allen	4
Ascension	4
*Assumption	2
*Avoyelles	3
*Beauregard	
Service Area: Dequincy	2
*Bienville	4
Caddo	
Population Group: Pov. Pop.—Central	
Shreveport	1
Facility: Louisiana State Univ Med Ctr	1
Calcasieu	
Service Area: Dequincy	2
Service Area: North Lake Charles	1

PRIMARY CARE: Louisiana—Continued

Parish Listing

Parish Name	Degree of shortage group
*Caldwell	3
*Cameron	2
*Catahoula	2
*Claiborne	3
*De Soto	1
*East Carroll	3
*East Feliciana	2
*Franklin	2
*Grant	1
*Iberia	
Population Group: Med. Ind. Pop.—	
Iberia Par.	1
*Jackson	3
Jefferson	
Service Area: Lafitte	2
Service Area: S.E. Lafourche	3
Lafourche	
Service Area: S.E. Lafourche	3
*Lasalle	4
*Lincoln	3
Livingston	2
*Madison	1
*Morehouse	4
*Natchitoches	4
Orleans	
Service Area: Desire/Florida	1
Service Area: Lower 9Th Ward	1
Service Area: St. Bernard	1
Population Group: Pov. Pop.—Irish	
Channel	1
Facility: New Orleans Charity Hosp.	1
Ouachita	
Population Group: Pov. Pop.—Oua-	
chita Par.	4
Facility: E.A. Conway Mem Hosp.	4
*Plaquemines	4
*Pointe Coupee	4
Rapides	
Population Group: Med. Ind. Pop.—	
Rapides Par.	2
*Sabine	2
*St Helena	1
*St James	
Service Area: Vacherie	1
St John The Baptist	
Service Area: Vacherie	1
*St Landry	
Service Area: Palmetto	1
St Martin	1
*St Mary	
Service Area: Teche	3
*Tangipahoa	
Population Group: Med. Ind. Pop.—	
Tangipahoa Par.	4
*Tensas	1
Terrebonne	
Service Area: Dulac	1
*Union	3
*Vernon	1
*Washington	4
*Webster	2
*West Carroll	1
*Winn	1

PRIMARY CARE: Louisiana*Service Area Listing*

Service Area Name	Degree of shortage group
Dequincy.....	2
Parish—Beauregard	
Parts:	
*Ward 1	
*Ward 5-6	
Parish—Calcasieu	
Parts:	
Ward 5-6	
Desire/Florida.....	1
Parish—Orleans	
Parts:	
C.T. 11 (N. Of Derbigny St.)	
C.T. 14.01-14.02 (N. Of Derbigny St.)	
C.T. 15-16	
C.T. 17.03	
C.T. 17.14	
Dulac.....	1
Parish—Terrebonne	
Parts:	
Ward 4 (excluding Houma)	
Ward 6-7 (excluding Houma)	
Lafitte.....	2
Parish—Jefferson	
Parts:	
Ward 6	
Ward 11	
Lower 9Th Ward.....	1
Parish—Orleans	
Parts:	
C.T. 7.01-7.02	
C.T. 8	
C.T. 9.01-9.04	
North Lake Charles.....	1
Parish—Calcasieu	
Parts:	
C.T. 2-4	
C.T. 14-15	
Palmetto.....	1
Parish—St Landry	
Parts:	
*Ward 4	
S.E. Lafourche.....	3
Parish—Jefferson	
Parts:	
Ward 11	
Parish—Lafourche	
Parts:	
S.E. Ward 10	
St. Bernard.....	1
Parish—Orleans	
Parts:	
C.T. 33.05-33.06	
Teche.....	3
Parish—St Mary	
Parts:	
Ward 1-4	
Ward 7	
Ward 10	
Vacherie.....	1
Parish—St James	
Parts:	
Ward 5-7	
Parish—St John The Baptist	
Parts:	
Ward 1-3	

PRIMARY CARE: Louisiana*Population Group Listing*

Population Group	Degree of shortage group
Med. Ind. Pop.—Iberia Par.....	1
Parish—Iberia	
Parts:	
Med. Ind. Pop.	
Med. Ind. Pop.—Rapides Par.....	2
Parish—Rapides	
Parts:	
Med. Ind. Pop.	
Med. Ind. Pop.—Tangipahoa Par.....	4
Parish—Tangipahoa	
Parts:	
Med. Ind. Pop.	
Pov. Pop.—Central Shreveport.....	1
Parish—Caddo	
Parts:	
C.T. 201-204	
C.T. 206-213	
C.T. 218-220	
Pov. Pop.—Irish Channel.....	1
Parish—Orleans	
Parts:	
C.T. 77-78	
C.T. 81.01-81.02	
C.T. 83	
C.T. 87-89	
Pov. Pop.—Ouachita Par.....	4
Parish—Ouachita	
Parts:	
Pov. Pop.	

PRIMARY CARE: Louisiana*Facility Listing*

Facility Name	Degree of shortage group
E.A. Conway Mem Hosp.....	4
Parish—Ouachita	
Louisiana State Univ Med Ctr.....	1
Parish—Caddo	
New Orleans Charity Hosp.....	1
Parish—Orleans	

PRIMARY CARE: Maine*County Listing*

County Name	Degree of shortage group
Androscoggin	
Service Area: Jay/Livermore Falls.....	2
*Aroostook	
Service Area: Ashland.....	1
Service Area: Danforth.....	2
Service Area: Eagle Lake.....	1
Service Area: Island Falls.....	4
Service Area: St. Francis.....	1
Service Area: Van Buren.....	3
Cumberland	
Service Area: Casco Bay Islands.....	1
*Franklin	
Service Area: Jay/Livermore Falls.....	2
*Hancock	
Service Area: Bucksport.....	4
*Kennebec	
Service Area: Jay/Livermore Falls.....	2
Service Area: Richmond.....	1

PRIMARY CARE: Maine—Continued*County Listing*

County Name	Degree of shortage group
*Lincoln	
Service Area: Richmond.....	1
*Oxford	
Service Area: Bethel.....	1
Service Area: Jay/Livermore Falls.....	2
Penobscot	
Service Area: Corinth.....	1
Service Area: Danforth.....	2
Service Area: Dexter.....	2
Service Area: Howland.....	3
Service Area: Island Falls.....	4
*Piscataquis	
Service Area: Bingham.....	1
Service Area: Milo.....	2
*Sagadahoc	
Service Area: Richmond.....	1
*Somerset	
Service Area: Bingham.....	1
Service Area: Dexter.....	2
Service Area: Jackman.....	1
Waldo	
Service Area: Bucksport.....	4
*Washington	
Service Area: Danforth.....	2
Service Area: Eastport.....	1
Service Area: Jonesport.....	1
Service Area: Milbridge.....	3
Service Area: Vanceboro.....	1

PRIMARY CARE: Maine*Service Area Listing*

Service Area Name	Degree of shortage group
Ashland.....	1
County—Aroostook	
Parts:	
*Ashland Twn.	
*Garfield Plt.	
*Masardis Twn.	
*Nashville Plt.	
*Oxbow Plt.	
*Portage Lake Twn.	
Bethel.....	1
County—Oxford	
Parts:	
*Bethel Twn.	
*Gilead Twn.	
*Greenwood Twn.	
*N. Oxford (Unorg.)	
*Newry Twn.	
*Upton Twn.	
*Woodstock Twn.	
Bingham.....	1
County—Piscataquis	
Parts:	
*Kingsbury Plt.	
County—Somerset	
Parts:	
*Bingham Twn.	
*Brighton Plt.	
*Caratunk Plt.	
*Moscow Twn.	
*N.E. Somerset Unorg. (S. 1/2)	
*Pleasant Ridge Twn.	
*Solon Twn.	
*The Forks Plt.	
*West Forks Plt.	
Bucksport.....	4

PRIMARY CARE: Maine—Continued

Service Area Listing

Service Area Name	Degree of shortage group
County—Hancock Parts: *Bucksport Twn. *Orland Twn. *Verona Twn.	
County—Waldo Parts: Frankfort Twn. Prospect Twn.	
Casco Bay Islands.....	1
County—Cumberland Parts: Cliff Island Cushing Island Great Chebeague Island Great Diamond Island Little Chebeague Island Little Diamond Island Long Island Peak'S Island	
Corinth.....	1
County—Penobscot Parts: Bradford Twn. Charleston Twn. Corinth Twn. Exeter Twn. Hudson Twn.	
Danforth.....	2
County—Aroostook Parts: *Bancroft *Orient *Weston	
County—Penobscot Parts: Drew Kingman Unorg. Prentiss Whitney (Unorg.)	
County—Washington Parts: *Danforth	
Dexter.....	2
County—Penobscot Parts: Corinna Twn. Dexter Twn. Garland Twn.	
County—Somerset Parts: *Combridge Twn.	
Eagle Lake.....	1
County—Aroostook Parts: *Eagle Lake Twn. *Wallagrass PIt. *Winterville PIt.	
Eastport.....	1
County—Washington Parts: *Eastport City *Pembroke Twn. *Perry Twn. *Pleasant Point	
Howland.....	3
County—Penobscot Parts: Burlington Twn. Edinburg Twn. Enfield Twn. Grand Falls PIt. Howland Twn. Lagrange Twn. Lowell Twn. Maxfield Twn.	

PRIMARY CARE: Maine—Continued

Service Area Listing

Service Area Name	Degree of shortage group
Passadumkeag Twn. Seboeis PIt.	
Island Falls.....	4
County—Aroostook Parts: *Benedicta Twn. *Crystal Twn. *Dyer Brook Twn. *Hersey Twn. *Island Falls Twn. *Moro PIt. *S. Aroostook (Unorg.) *Sherman Twn.	
County—Penobscot Parts: Mt. Chase Twn. N. Penobscot Unorg. Patten Twn. Stacyville Twn.	
Jackman.....	1
County—Somerset Parts: *Dennistown PIt. *Jackman Twn. *Moose River Twn.	
Jay/Livermore Falls.....	2
County—Androscoggin Parts: Livermore Falls Twn. Livermore Twn.	
County—Franklin Parts: *Jay Twn.	
County—Kennebec Parts: *Fayette Twn.	
County—Oxford Parts: *Canton Twn. *Hartford Twn. *Sumner Twn.	
Jonesport.....	1
County—Washington Parts: *Addison Twn. *Beals Twn. *Centerville Twn. *Columbia Falls Twn. *Jonesboro Twn. *Jonesport Twn.	
Milbridge.....	3
County—Washington Parts: *Beddington Twn. *Cherryfield Twn. *Columbia Twn. *Deblois Twn. *Harrington Twn. *Milbridge Twn. *Steuben Twn.	
Milo.....	2
County—Piscataquis Parts: *Atkinson Twn. *Barnard PIt. *Brownville Twn. *Lakeview PIt. *Medford Twn. *Milo Twn. *S.E. Piscataquis (Unorg.) *Sebec Twn.	
Richmond.....	1
County—Kennebec Parts: *Litchfield Twn.	

PRIMARY CARE: Maine—Continued

Service Area Listing

Service Area Name	Degree of shortage group
County—Lincoln Parts: *Dresden Twp. County—Sagadahoc Parts: *Bowdoinham Twp. *Richmond Twp.	
St. Francis.....	1
County—Aroostook Parts: *Allagash Twn. *St. Francis PIt. *St. John PIt.	
Van Buren.....	3
County—Aroostook Parts: Grand Isle Twn. Hamlin Twn. Van Buren Twn.	
Vanceboro.....	1
County—Washington Parts: *Codyville PIt. *Grand Lake Stream PIt. *Indian Twn. *N. Washington Unorg. *Talmadge Twn. *Topsfield Twn. *Vanceboro Twn. *Waite Twn.	

PRIMARY CARE: Maryland

County Listing

County Name	Degree of shortage group
Allegany	
Service Area: Hancock (Md/Pa/Wv).....	2
Anne Arundel	
Service Area: Owensville.....	2
Baltimore City	
Service Area: North Central Baltimore.....	1
Service Area: O'Donnell Heights.....	1
Service Area: Orleans Square.....	2
Service Area: West Baltimore.....	1
Facility: Mercy Hosp.....	1
*Caroline.....	2
Cecil	
Service Area: Cecil/Kent.....	2
Charles.....	3
*Dorchester	
Service Area: Northeast Dorchester (Hurlock).....	2
*Kent	
Service Area: Cecil/Kent.....	2
*Somerset.....	4
Washington	
Service Area: Hancock (Md/Pa/Wv).....	2
*Worcester	
Service Area: Snow Hill/Pokomoke.....	4

PRIMARY CARE: Maryland*Service Area Listing*

Service Area Name	Degree of shortage group
Cecil/Kent.....	2
County—Cecil	
Parts:	
Dist. 1 (cecilion)	
County—Kent	
Parts:	
*Dist. 1 (massoy)	
Hancock (Md/Pa/Wv).....	2
County—Allegany	
Parts:	
Dist. 1 (orleans)	
County—Washington	
Parts:	
Dist. 4-5 (Indian Spring)	
Dist. 15 (Indian Spring)	
North Central Baltimore.....	1
County—Baltimore City	
Parts:	
C.T. 805 (Indian Spring)	
C.T. 901-909	
C.T. 1204	
Northeast Dorchester (Hurlock).....	2
County—Dorchester	
Parts:	
*Dist. 1-3 (Williamsburg)	
*Dist. 12 (Williamsburg)	
*Dist. 15 (Hurlock)	
O'Donnell Heights.....	1
County—Baltimore City	
Parts:	
C.T. 2606.01-2606.02	
Orleans Square.....	2
County—Baltimore City	
Parts:	
C.T. 103	
C.T. 105	
C.T. 201-202	
C.T. 602-603	
C.T. 702-704	
C.T. 802	
C.T. 803.01	
C.T. 804	
C.T. 806-808	
Owensville.....	2
County—Anne Arundel	
Parts:	
C.T. 7012-7014	
C.T. 7070	
C.T. 7080	
Snow Hill/Pokomoke.....	4
County—Worcester	
Parts:	
*Dist. 1-2 (atkinsons)	
*Dist. 7-8 (stockon)	
West Baltimore.....	1
County—Baltimore City	
Parts:	
C.T. 1801-1803	
C.T. 1901-1903	
C.T. 2001-2005	

PRIMARY CARE: Maryland*Population Group Listing*

Population Group	Degree of shortage group
Pov. Pop.—Northwest Baltimore.....	4
Parts:	
C.T. 1512-1513	
C.T. 2716-2717	

PRIMARY CARE: Maryland—Continued*Population Group Listing*

Population Group	Degree of shortage group
C.T. 2718.01-2718.02	

PRIMARY CARE: Maryland*Facility Listing*

Facility Name	Degree of shortage group
Mercy Hosp.	1
County—Baltimore City	
Mercy Hospital	

PRIMARY CARE: Massachusetts*County Listing*

County Name	Degree of shortage group
*Barnstable	
Service Area: Provincetown.....	2
Bristol	
Service Area: S.E. New Bedford.....	1
Essex	
Service Area: North Lawrence.....	2
Service Area: South Lynn.....	2
Population Group: Non-Eng. Sp. Pop.—Peabody/Salem.....	1
Middlesex	
Population Group: Port./Hisp. Pop.—E. Cambridge.....	1
Population Group: Portuguese Pop.—Somerville.....	4
Norfolk	
Facility: Norfolk-Walpole Corr. I.....	3
Plymouth	
Population Group: Medicaid Pop.—Hull.....	1
Suffolk	
Service Area: N. Dorchester.....	2
Service Area: Roxbury.....	1
Service Area: S. Dorchester.....	3
Service Area: South Boston.....	4
Population Group: Chinese Pop.—Brighton/Allston.....	1
Population Group: Chinese Pop.—South End Boston.....	2
Population Group: Pov. Pop.—Brighton/Allston.....	1
Worcester	
Service Area: Great Brook Valley.....	3
Service Area: So. Blackstone Valley.....	3

PRIMARY CARE: Massachusetts*Service Area Listing*

Service Area Name	Degree of shortage group
Great Brook Valley.....	3
County—Worcester	
Parts:	
C.T. 7320.01	
N. Dorchester.....	2

PRIMARY CARE: Massachusetts—Continued*Service Area Listing*

Service Area Name	Degree of shortage group
County—Suffolk	
Parts:	
C.T. 901-924	
North Lawrence.....	2
County—Essex	
Parts:	
C.T. 2501-2516	
C.T. 2524	
Provincetown.....	2
County—Barnstable	
Parts:	
Provincetown	
Roxbury.....	1
County—Suffolk	
Parts:	
C.T. 801-821	
S. Dorchester.....	3
County—Suffolk	
Parts:	
C.T. 1001-1005	
C.T. 1006.01-1006.02	
C.T. 1007-1009	
C.T. 1010.01-1010.02	
C.T. 1011.01-1011.02	
S.E. New Bedford.....	1
County—Bristol	
Parts:	
C.T. 6507-6509	
C.T. 6511-6514	
C.T. 6517-6519	
C.T. 6526-6527	
So. Blackstone Valley.....	3
County—Worcester	
Parts:	
Blackstone Twn.	
Douglas Twn.	
Mendon Twn.	
Millville Twn.	
Northbridge Twn.	
Sutton Twn.	
Uxbridge Twn.	
South Boston.....	4
County—Suffolk	
Parts:	
C.T. 605-613	
South Lynn.....	2
County—Essex	
Parts:	
C.T. 2058	
C.T. 2060-2063	
C.T. 2065	
C.T. 2067-2072	

PRIMARY CARE: Massachusetts*Population Group Listing*

Population Group	Degree of shortage group
Chinese Pop.—Brighton/Allston.....	1
County—Suffolk	
Parts:	
C.T. 1-8	
Chinese Pop.—South End Boston.....	2
County—Suffolk	
Parts:	
C.T. 701-712	
Medicaid Pop.—Hull.....	1

PRIMARY CARE: Massachusetts—Continued*Population Group Listing*

Population Group	Degree of shortage group
County—Plymouth Parts: C.T. 5001.01–5001.02	1
Non-Eng. Sp. Pop.—Peabody/Salem	
County—Essex Parts: C.T. 2043 C.T. 2045–2047 C.T. 2104 C.T. 2107–2109	1
Port./Hispanic Pop.—E. Cambridge	
County—Middlesex Parts: C.T. 3521–3523 C.T. 3531	4
Portuguese Pop.—Somerville	
County—Middlesex Parts: Somerville	1
Pov. Pop.—Brighton/Allston	
County—Suffolk Parts: C.T. 1 C.T. 2.01–2.02 C.T. 3–5 C.T. 6.01–6.02 C.T. 7.01–7.02 C.T. 8	

PRIMARY CARE: Massachusetts*Facility Listing*

Facility Name	Degree of shortage group
Norfolk-Walpole Corr. I.	3
County—Norfolk Norfolk Twn.—Norfolk Corr. I. Walpole Twn.—Walpole Corr. I.	

PRIMARY CARE: Michigan*County Listing*

County Name	Degree of shortage group
*Alcona	2
*Alger	2
*Allegan Service Area: Allegan	2
Service Area: South Haven/Bangor	4
*Alpena	4
*Antrim Service Area: East Jordan	4
Service Area: Mancelona	2
*Arenac Service Area: Sterling/Standish	3
Bay Service Area: Sterling/Standish	3
*Cass Service Area: Dowagiac	3
Service Area: Three Rivers	4
*Charlevoix Service Area: East Jordan	4
*Clare Service Area: Harrison	3

PRIMARY CARE: Michigan—Continued*County Listing*

County Name	Degree of shortage group
Service Area: Marion	1
Genesee Service Area: North Flint/Beecher	1
Service Area: Otter Lake	3
*Gladwin Service Area: Ironwood/Hurley (Mi/Wi)	2
Service Area: Sterling/Standish	3
*Gogebic Service Area: Ewen	2
Service Area: Ironwood/Hurley (Mi/Wi)	2
Jackson Facility: State Prs.—South Michigan	2
*Kalamazoo Service Area: Mancelona	2
Kent Service Area: Northern Kent	2
Population Group: Med. Ind.—Grand Rapids	1
*Keweenaw	1
*Lake Service Area: Lake/Newaygo	1
Lapeer Service Area: Marlette/Kingston	2
Service Area: Otter Lake	3
*Mackinac	2
*Marquette Facility: Marquette Branch Prs.	2
*Menominee Service Area: Northern Menominee	2
*Missaukee Service Area: Houghton Lake	3
Service Area: Marion	1
Monroe Service Area: Carlton	2
Population Group: Medicaid—South Monroe	2
*Montmorency	4
Muskegon Service Area: Northern Kent	2
*Newaygo Service Area: Lake/Newaygo	1
Service Area: White Cloud	4
*Ogemaw Service Area: Rose City/Lupton	1
*Ontonagon Service Area: Ewen	2
*Osceola Service Area: Marion	1
Ottawa Service Area: Northern Kent	2
*Roscommon Service Area: Houghton Lake	3
Saginaw Service Area: East Side Saginaw	1
*Sanilac Service Area: Marlette/Kingston	2
*Shiawassee Service Area: Perry/Morrice	3
*St Joseph Service Area: Three Rivers	4
*Tuscola Service Area: Marlette/Kingston	2
Service Area: Otter Lake	3
*Van Buren Service Area: Dowagiac	3
Service Area: South Haven/Bangor	4
Wayne Service Area: Airport/Conner (N.E. Detroit)	1
Service Area: Chene (S. Central Detroit)	1
Service Area: Eastside Detroit	2
Service Area: Mackenzie/Brooks	1
Service Area: Nolan/State Fair/Davison/Pershing	3

PRIMARY CARE: Michigan—Continued*County Listing*

County Name	Degree of shortage group
Service Area: Tireman/Chadsey	1
PRIMARY CARE: Michigan	
<i>Service Area Listing</i>	
Service Area Name	Degree of shortage group
Airport/Conner (N.E. Detroit)	1
County—Wayne Parts: C.T. 5037–5048 C.T. 5101 C.T. 5107–5109	
Allegan County—Allegan Parts: *Allegan Twp. *Allegan City *Cheshire Twp. *Clyde Twp. *Hopkins Twp. *Lee Twp. *Martin Twp. *Monterey Twp. *Trowbridge Twp. *Valley Twp. *Watson Twp. *Wayland Twp. *Wayland City	2
Carlton	
County—Monroe Parts: C.T. 303–306 (London Twp.)	1
Chene (S. Central Detroit)	
County—Wayne Parts: C.T. 5110–5111 C.T. 5161 C.T. 5177–5179 C.T. 5182–5188	3
Dowagiac	
County—Cass Parts: *Dowagiac City *Lagrange Twp. *Marcellus Twp. *Newberg Twp. *Penn Twp. *Pokhagen Twp. *Silver Creek Twp. *Volinia Twp. *Wayne Twp.	4
County—Van Buren Parts: *Decatur Twp. *Hamilton Twp. *Keeler Twp. *Porter Twp.	
East Jordan	4
County—Antrim Parts: *Banks Twp. *Echo Twp. *Jordan Twp. (N 1/2)	
County—Charlevoix Parts: *East Jordan City *South Arm Twp. *Wilson Twp. (S 1/2)	1
East Side Saginaw	

PRIMARY CARE: Michigan—Continued

Service Area Listing

Service Area Name	Degree of shortage group
County—Saginaw Parts: C.T. 1-11 C.T. 110	
Eastside Detroit.....	2
County—Wayne Parts: C.T. 5121-5158	
Ewen.....	2
County—Gogebic Parts: Marenisco Twp. Watersmeet Twp.	
County—Ontonagon Parts: Bergland Twp. Haight Twp. Interior Twp. Matchwood Ywp. McMillan Twp. Rockland Twp. Stannard Twp.	
Harrison.....	3
County—Clare Parts: *Arthur Twp. *City Of Harrison *Franklin Twp. *Freeman Twp. *Frost Twp. *Greenwood Twp. *Hamilton Twp. *Haltom Twp. *Hayes Twp. *Lincoln Twp. *Summerfield Twp.	
Houghton Lake.....	3
County—Missaukee Parts: Butterfield Twp. Enterprise Twp. Holland Twp.	
County—Roscommon Parts: Denton Twp. Lake Twp. Markey Twp. Roscommon Twp.	
Ironwood/Hurley (Mi/Wi).....	2
County—Gladwin Parts: Anderson Twn. Carey Twn. Gurney Twn. Hurley City Kimball Twn. Knight Twn. Mercer Twn. Montreal City Oma Twn. Pence Twn. Saxon Twn.	
County—Gogebic Parts: Bessemer City Bessemer Twp. Erwin Twp. Ironwood City Ironwood Twp. Wakefield City Wakefield Twp.	
Lake/Newaygo.....	1
County—Lake Parts: *Chase Twp. *Cherry Valley Twp.	

PRIMARY CARE: Michigan—Continued

Service Area Listing

Service Area Name	Degree of shortage group
*Dover Twp. *Eden Twp. *Elk Twp. *Ellsworth Twp. *Lake Twp. *Newkirk Twp. *Peacock Twp. *Pinora Twp. *Pleasant Plains Twp. *Sauble Twp. *Sweetwater Twp. *Webber Twp. *Yates Twp.	
County—Newaygo Parts: *Beaver Twp. *Home Twp. *Lilly Twp. *Merrill Twp. *Monroe Twp. *Troy Twp.	
Mackenzie/Brooks.....	1
County—Wayne Parts: C.T. 5341-5344 C.T. 5347-5355 C.T. 5364-5367 C.T. 5370-5374 C.T. 5451-5454	
Mancelona.....	2
County—Antrim Parts: *Chestonia Twp. *Custer Twp. *Helena Twp. *Jordan Twp. (S 1/2) *Kearney Twp. *Mancelona Twp. *Star Twp.	
County—Kalkaska Parts: *Blue Lake Twp. *Cold Springs Twp. *Rapid River Twp.	
Marion.....	1
County—Clare Parts: *Redding Twp. *Winterfield Twp.	
County—Missaukee Parts: *Clam Union Twp. *Riverside Twp.	
County—Osceola Parts: *Hartwick Twp. *Highland Twp. *Marion Twp. *Middle Branch Twp.	
Marlette/Kingston.....	2
County—Lapeer Parts: Burlington Twp. (N. 1/2)	
County—Sanilac Parts: *La Motte Twp. *Marlette Twp.	
County—Tuscola Parts: *Dayton Twp. *Freemont Twp. (E 1/2) *Kingston Twp. *Koylton Twp.	
Nolan/State Fair/Davison/Pershing.....	3

PRIMARY CARE: Michigan—Continued

Service Area Listing

Service Area Name	Degree of shortage group
County—Wayne Parts: C.T. 5064-5080 C.T. 5102-5106	
North Flint/Beecher.....	1
County—Genesee Parts: C.T. 1-7 C.T. 19-26 C.T. 103.02 C.T. 103.04 C.T. 122.02	
Northern Kent.....	2
County—Kent Parts: Algoma Twp. (N 1/2) Cedar Springs City Nelson Twp. Solon Twp. Sparta Twp. Tyrone Twp.	
County—Muskegon Parts: Casnovia Twp.	
County—Ottawa Parts: Chester Twp.	
Northern Menominee.....	2
County—Menominee Parts: Cedarville Twp. Daggett Twp. Faithorn Twp. Gourley Twp. Harris Twp. Holmes Twp. Lake Twp. Meyer Twp. Nadeau Twp. Spalding Twp. Stephenson Twp. Stephenson City	
Otter Lake.....	3
County—Genesee Parts: Forest Twp.	
County—Lapeer Parts: Deerfield Twp. Marathon Twp. Rich Twp.	
County—Tuscola Parts: Arbela Twp. Watertown Twp. Willington Twp.	
Perry/Morrice.....	3
County—Shiawassee Parts: Antrim Twp. Burns Twp. Perry Twp. Perry City	
Rose City/Lupton.....	1
County—Ogemaw Parts: *Cumming Twp. *Goodar Twp. *Hill Twp. *Rose City *Rose Twp.	
South Haven/Bangor.....	4
County—Allegan Parts: *Casco Twp. *Ganges Twp.	

PRIMARY CARE: Michigan—Continued
Service Area Listing

Service Area Name	Degree of shortage group
County—Van Buren Parts: *Arlington Twp. *Bangor City *Bangor Twp. *Columbia Twp. *Covert Twp. *Geneva Twp. *Lawrence Twp. *South Haven City *South Haven Twp.	3
Sterling/Standish	
County—Bay Parts: Gibson Twp. County—Arenac County—Gladwin Parts: *Bentley Twp. *Bourne Twp. *Grim Twp.	4
Three Rivers	
County—Cass Parts: *Porter Twp. County—St Joseph Parts: *Constance Twp. *Fabius Twp. *Florence Twp. *Flowerfield Twp. *Leonidas Twp. *Lockport Twp. *Mendon Twp. *Nottawa Twp. *Park Twp. *Three Rivers City	1
Tireman/Chadsey	
County—Wayne Parts: C.T. 5221-5222 C.T. 5251-5266 C.T. 5335-5337 C.T. 5345-5346	4
White Cloud	
County—Newaygo Parts: Big Prairie Twp. Croton Twp. Everett Twp. Goodwell Twp. Lincoln Twp. White Cloud City Wilcox Twp.	

PRIMARY CARE: Michigan
Population Group Listing

Population Group	Degree of shortage group
Med. Ind.—Grand Rapids	1
County—Kent Parts: Med. Ind.—Grand Rapids City	2
Medicaid—South Monroe	
County—Monroe Parts: Medicaid—Erie Medicaid—Summerfield Medicaid—Ida	

PRIMARY CARE: Michigan—Continued
Population Group Listing

Population Group	Degree of shortage group
Medicaid—La Salle Medicaid—Whiteford Medicaid—Bedford	
PRIMARY CARE: Michigan	
<i>Facility Listing</i>	
Facility Name	Degree of shortage group
Marquette Branch Prs.	2
County—Marquette State Prs.—South Michigan County—Jackson State Prs.—S. Michigan	2

PRIMARY CARE: Minnesota
County Listing

County Name	Degree of shortage group
*Aitkin Service Area: Floodwood	1
Service Area: Mille Lacs	2
Service Area: Sandstone/Hinckley	2
*Big Stone Service Area: Ortonville (Mn/Sd)	4
*Cass Clay Service Area: Barnesville	2
*Cook Cottonwood Service Area: Windom/Mountain Lake	3
*Crow Wing Service Area: Mille Lacs	2
*Grant Hennepin Service Area: Near North—(minneapolis)	4
Population Group: Am. Ind. in Minneapolis	4
*Houston Service Area: Caledonia/Spring Grove (Iowa/Minn)	3
*Jackson Service Area: Windom/Mountain Lake	3
*Kanabec Service Area: Mille Lacs	2
Service Area: Sandstone/Hinckley	2
*Kandiyohi Service Area: Paynesville	4
*Koochiching Service Area: Littlefork/Big Falls	4
*Lac Qui Parle Service Area: Canby (Mn/Sd)	4
Service Area: Ortonville (Mn/Sd)	4
*Lake Service Area: Ely/Babbitt	4
Service Area: Silver Bay	2
*Lake Of The Woods Service Area: Warroad	3
*Lincoln Service Area: Canby (Mn/Sd)	4
*Mahnomon	1
*Marshall Service Area: Warren	4

PRIMARY CARE: Minnesota—Continued
County Listing

County Name	Degree of shortage group
*Meeker Service Area: Paynesville	4
*Mille Lacs Service Area: Mille Lacs	2
*Morrison Service Area: Mille Lacs	2
*Murray	4
*Pine Service Area: Sandstone/Hinckley	2
*Polk Service Area: Fosston	4
Service Area: Warren	4
Ramsey Service Area: Summit-Dale	1
*Red Lake	3
*Roseau Service Area: Roseau	4
Service Area: Warroad	3
St Louis Service Area: Cook/Orr	4
Service Area: Ely/Babbitt	4
Service Area: Floodwood	1
Stearns Service Area: Paynesville	4
Service Area: Sauk Centre/Melrose	4
*Todd Service Area: Sauk Centre/Melrose	4
*Wabasha Service Area: Plainview	1
*Wilkin Service Area: Barnesville	2
*Winona Service Area: Plainview	1
*Yellow Medicine Service Area: Canby (Mn/Sd)	4

PRIMARY CARE: Minnesota
Service Area Listing

Service Area Name	Degree of shortage group
Barnesville	2
County—Clay Parts: Alliance Twp. Barnesville City Barnesville Twp. Comstock City Elkton Twp. Holy Cross Twp. Humboldt Twp. Parke Twp. Skree Twp. Tansem Twp.	3
County—Wilkin Parts: Atherton Twp. Deerhorn Twp. Manston Twp. Mitchell Twp. Prairie View Twp. Rothsay City Tanberg Twp. Wolverton Twp.	
Caledonia/Spring Grove (Iowa/Minn)	3
County—Houston Parts: *Black Hammer Twp. *Caledonia Twp.	

PRIMARY CARE: Minnesota— Continued Service Area Listing		PRIMARY CARE: Minnesota— Continued Service Area Listing		PRIMARY CARE: Minnesota— Continued Service Area Listing	
Service Area Name	Degree of shortage group	Service Area Name	Degree of shortage group	Service Area Name	Degree of shortage group
*Caledonia City *Crooked Creek Twp. *Eitzen City *Jefferson Twp. *Mayville Twp. *Spring Grove Twp. *Spring Grove City *Wilmington Twp. *Winnebago Twp.		Winton Vil. Floodwood.....	1	County—Crow Wing Parts: Garrison City Garrison Twp. Roosevelt Twp.	
Canby (Mn/Sd).....	4	County—Aitkin Parts: Ball Bluff Twp. Balsam Twp. Cornish Twp. Turner Twp. Unorg.—N E Aitkin		County—Kanabec Parts: Ford Twp. Hay Brook Twp. Hillman Twp.	
County—Lac Qui Parle Parts: *Freeland Twp. *Manfred Twp.		County—St Louis Parts: Arrowhead Twp. Cedar Valley Twp. Cotton Twp. Fine Lakes Twp. Floodwood City Floodwood Twp. Halden Twp. Kelsey Twp. Meadowlands City Meadowlands Twp. Ness Twp. Northland Twp. Payne Twp. Prairie Lake Twp. Tiovola Twp. Unorg.—(pot Shot Lake) Van Buren Twp.		County—Mille Lacs Parts: Bradbury Twp. Daily Twp. East Side Twp. Isle City Isle Harbor Twp. Kathio Twp. Lewis Twp. Mudgett Twp. Onamia City Onamia Twp. South Harbor Twp. Wahkon City	
County—Lincoln Parts: *Alta Vista Twp. *Hansonville Twp. *Marble Twp.		Fosston.....	4	County—Morrison Parts: Hillman City Leigh Twp. Mount Morris Twp. Richardson Twp.	
County—Yellow Medicine Parts: *Burton Twp. *Canby City *Florida Twp. *Fortier Twp. *Hammer Twp. *Norman Twp. *Omro Twp. *Oshkosk Twp. *Porter City *St. Leo City *Wergeland Twp.		County—Polk Parts: Badger Twp. Brandsvold Twp. Chester Twp. Columbia Twp. Eden Twp. Erskine City Fosston City Garden Twp. Gully City Gully Twp. Hill River Twp. Johnson Twp. King Twp. Knutte Twp. Lengby City Lessor Twp. McIntosh City Queen Twp. Rosebud Twp. Sletten Twp. Trail City Winger City Winger Twp. Woodside Twp.		Near North—(minneapolis).....	4
Cook/Orr.....	4	County—Polk Parts: Badger Twp. Brandsvold Twp. Chester Twp. Columbia Twp. Eden Twp. Erskine City Fosston City Garden Twp. Gully City Gully Twp. Hill River Twp. Johnson Twp. King Twp. Knutte Twp. Lengby City Lessor Twp. McIntosh City Queen Twp. Rosebud Twp. Sletten Twp. Trail City Winger City Winger Twp. Woodside Twp.		County—Hennepin Parts: C.T. 16 C.T. 20-23 C.T. 27-29 C.T. 32-35 C.T. 41-42	
County—St Louis Parts: Alango Twp. Angora Twp. Beatty Twp. Cook City Field Twp. Gheen—Unorg. Lake Vermillion—Unorg. Leiding Twp. Linden Grove Twp. Morcom Twp. N.E. St. Louis—Unorg. () N.W. St. Louis—Unorg. Nett Lake—Unorg. Orr City Owens Twp. Portage Twp. Sturgeon Twp. Willow Valley Twp.		County—Polk Parts: Badger Twp. Brandsvold Twp. Chester Twp. Columbia Twp. Eden Twp. Erskine City Fosston City Garden Twp. Gully City Gully Twp. Hill River Twp. Johnson Twp. King Twp. Knutte Twp. Lengby City Lessor Twp. McIntosh City Queen Twp. Rosebud Twp. Sletten Twp. Trail City Winger City Winger Twp. Woodside Twp.		Ortonville (Mn/Sd).....	4
Ely/Babbitt.....	4	County—Polk Parts: Badger Twp. Brandsvold Twp. Chester Twp. Columbia Twp. Eden Twp. Erskine City Fosston City Garden Twp. Gully City Gully Twp. Hill River Twp. Johnson Twp. King Twp. Knutte Twp. Lengby City Lessor Twp. McIntosh City Queen Twp. Rosebud Twp. Sletten Twp. Trail City Winger City Winger Twp. Woodside Twp.		County—Big Stone Parts: *Akron Twp. *Big Stone Twp. *Correll City *Odessa City *Odessa Twp. *Ortonville City *Ortonville Twp. *Otre Twp. *Prier Twp. (S 1/2)	
County—Lake Parts: *Fall Lake Twp. *Unorg.—W. Lake		County—Polk Parts: Badger Twp. Brandsvold Twp. Chester Twp. Columbia Twp. Eden Twp. Erskine City Fosston City Garden Twp. Gully City Gully Twp. Hill River Twp. Johnson Twp. King Twp. Knutte Twp. Lengby City Lessor Twp. McIntosh City Queen Twp. Rosebud Twp. Sletten Twp. Trail City Winger City Winger Twp. Woodside Twp.		County—Lac Qui Parle Parts: *Agassiz Twp. *Yellow Bank Twp.	
County—St Louis Parts: Babbitt City Bassett Twp. Breitung Twp. Ely City Embarrass Twp. Kugler Twp. Morse Twp. Pike Twp. Sandy Twp. Tower City Unorg.—Birch Lake Unorg.—N.E. St. Louis Vermilion Lake Twp. Waasa Twp.		County—Polk Parts: Badger Twp. Brandsvold Twp. Chester Twp. Columbia Twp. Eden Twp. Erskine City Fosston City Garden Twp. Gully City Gully Twp. Hill River Twp. Johnson Twp. King Twp. Knutte Twp. Lengby City Lessor Twp. McIntosh City Queen Twp. Rosebud Twp. Sletten Twp. Trail City Winger City Winger Twp. Woodside Twp.		Paynesville.....	4
		County—Polk Parts: Badger Twp. Brandsvold Twp. Chester Twp. Columbia Twp. Eden Twp. Erskine City Fosston City Garden Twp. Gully City Gully Twp. Hill River Twp. Johnson Twp. King Twp. Knutte Twp. Lengby City Lessor Twp. McIntosh City Queen Twp. Rosebud Twp. Sletten Twp. Trail City Winger City Winger Twp. Woodside Twp.		County—Kandiyohi Parts: Irving Twp. Regal City Roseville Twp.	
		County—Polk Parts: Badger Twp. Brandsvold Twp. Chester Twp. Columbia Twp. Eden Twp. Erskine City Fosston City Garden Twp. Gully City Gully Twp. Hill River Twp. Johnson Twp. King Twp. Knutte Twp. Lengby City Lessor Twp. McIntosh City Queen Twp. Rosebud Twp. Sletten Twp. Trail City Winger City Winger Twp. Woodside Twp.		County—Meeker Parts: Eden Valley City Forest Prairie Twp. Manannah Twp. Union Grove Twp. Watkins City	
		County—Polk Parts: Badger Twp. Brandsvold Twp. Chester Twp. Columbia Twp. Eden Twp. Erskine City Fosston City Garden Twp. Gully City Gully Twp. Hill River Twp. Johnson Twp. King Twp. Knutte Twp. Lengby City Lessor Twp. McIntosh City Queen Twp. Rosebud Twp. Sletten Twp. Trail City Winger City Winger Twp. Woodside Twp.		County—Stearns Parts: Eden Lake Twp. Farming Twp. Lake Henry City Lake Henry Twp. Luxemburg Twp.	

PRIMARY CARE: Minnesota— Continued Service Area Listing		PRIMARY CARE: Minnesota— Continued Service Area Listing		PRIMARY CARE: Minnesota— Continued Service Area Listing	
Service Area Name	Degree of shortage group	Service Area Name	Degree of shortage group	Service Area Name	Degree of shortage group
Munson Twp. Paynesville City Paynesville Twp. Richmond City Roscoe City St Martin City St Martin Twp. Zion Twp.		*Sanstone Twp. *Wilma City Sauk Centre/Melrose County—Stearns Parts: Ashley Twp. Elrosa City Freeport City Getty Twp. Greenwald City Grove Twp. Lake George Twp. Meire Grove City Melrose Twp. Melrose City Millwood Twp. New Munich City Oak Twp. Raymond Twp. Sauk Centre City Sauk Centre Twp. Spring Hill City Spring Hill Twp. St. Rosa City	4	*Bristlet Twp. *Farley Twp. Warroad County—Lake Of The Woods Parts: *Beltrami Forest—Unorg. W. 1/3 *N.W. Angle—Unorg. *Rainy River—Unorg. W. 1/4 County—Roseau Parts: *Beaver Twp. *Cedarbend Twp. *Enstrom Twp. *Falun Twp. *Lake Twp. *Laona Twp. *Moranville Twp. *Reine Twp. *Roosevelt City *Southeast Roseau—Unorg. *Warroad City	3
Plainview County—Wabasha Parts: Elgin City Elgin Twp. Highland Twp. Millville Twp. Oakwood Twp. Plainview City Plainview Twp. Watopa Twp.	1	County—Todd Parts: Birchdale Twp. Gordon Twp. Grey Eagle City Grey Eagle Twp. Kandota Twp. Little Sauk Twp. West Union City West Union Twp.		Windom/Mountain Lake County—Cottonwood Parts: Amboy Twp. Arno Twp. Bingham Lake City Carson Twp. Dale Twp. Delton Twp. Great Bend Twp. Jeffers City Lakeside Twp. Midway Twp. Mountain Lake City Mountain Lake Twp. Selma Twp. Springfield Twp. Windom City	3
County—Winona Parts: Whitewater Twp.		Silver Bay County—Lake Parts: Beaver Bay City Beaver Bay Twp. (Pt.) Crystal Bay Twp. East Lake Unorg. Terr. Silver Bay City	2	County—Jackson Parts: Christiana Twp. Delafield Twp. Kimball Twp. Wilder City	
Roseau County—Roseau Parts: *Deiter Twp. *Grimstad Twp. *Jadis Twp. *Malung Twp. *Mickinock Twp. *Moose Twp. *N. Roseau—Unorg. *N.W. Roseau—Unorg. *Nereson Twp. *Pohlitz Twp. *Roseau City *Ross Twp. *S.E. Roseau—Unorg. *Soler Twp. *Spruce Twp. *Stafford Twp. *Stokes Twp.	4	Summit-Dale County—Ramsey Parts: C.T. 326-327 C.T. 335-340 C.T. 354-355	1		
Sandstone/Hinckley County—Aitkin Parts: *Wagner Twp.	2	Warren County—Marshall Parts: *Alma Twp. *Alvarado City *Argyle City *Big Woods Twp. *Bloomer Twp. *Boxville Twp. *Comstock Twp. *Foldahl Twp. *McCrea Twp. *Middle River Twp. *Oak Park Twp. *Oslo City *Parker Twp. *Sinnott Twp. *Stephen Twp. *Tamarac Twp. *Vega Twp. *Wanger Twp. *Warren City *Warrenton Twp.	4		
County—Kanabec Parts: *Kroschel Twp. *Pomroy Twp.		County—Polk Parts: *Angus Twp.			
County—Pine Parts: *Arlone Twp. *Arna Twp. *Askov City *Barry Twp. *Bremen Twp. *Bruno Twp. *Clover Twp. *Danforth Twp. *Dell Grove Twp. *Finayson Twp. *Finlayson City *Fleming Twp. *Hinckley Twp. *Hinckley City *Kettle River Twp. *New Dorsey Twp. *Norman Twp. *Ogema Twp. *Park Twp. *Partridge Twp. *Pine Lake Twp. *Sandstone City					
				PRIMARY CARE: Minnesota Population Group Listing	
				Population Group	Degree of shortage group
				Am. Ind. In Minneapolis County—Hennepin Parts: Am. Ind. Pop.—Minn	4
				PRIMARY CARE: Mississippi County Listing	
				County Name	Degree of shortage group
				*Alcorn Population Group: Pov. Pop.—Alcorn Co.	2

PRIMARY CARE: Mississippi— Continued County Listing		PRIMARY CARE: Mississippi— Continued County Listing		PRIMARY CARE: Mississippi Population Group Listing	
County Name	Degree of shortage group	County Name	Degree of shortage group	Population Group	Degree of shortage group
*Amite		*Tallahatchie.....	1	Med. Ind.—Panola Co.....	1
Service Area: Centreville.....	2	*Tippah.....	4	County—Panola	
*Attala.....	4	*Tunica.....	2	Parts:	
*Benton.....	1			Med. Ind. Pop.	
*Bolivar		*Warren		Med. Ind. Pop.—Bolivar/Sunflower.....	2
Service Area: Rosedale.....	1	Population Group: Pov. Pop.—Warren		County—Bolivar	
Population Group: Med. Ind. Pop.—		Co.....	3	Parts:	
Bolivar/Sunflower.....	2	*Washington		Med. Ind. Pop.	
*Calhoun.....	4	Service Area: Hollandale.....	1	County—Sunflower 4	
*Carroll.....	1	*Webster.....	4	Parts:	
*Choctaw.....	2	*Wilkinson		Med. Ind. Pop.	
*Claiborne.....	1	Service Area: Centreville.....	2	Med. Ind. Pop.—Coahoma Co.....	4
*Clarke.....	2	*Yalobusha.....	2	County—Coahoma	
*Coahoma		*Yazoo.....	3	Parts:	
Population Group: Med. Ind. Pop.—				Med. Ind. Pop.	
Coahoma Co.....	4			Med. Ind. Pop.—Harrison Co.....	1
*Copiah.....	3			County—Harrison	
*Covington.....	4			Parts:	
*Franklin.....	4			Med. Ind. Pop.	
*George.....	3			Pov Pop.—Jones Co.....	2
*Greene.....	3			County—Jones	
Hancock.....	2			Parts:	
Harrison				Pov Pop.	
Population Group: Med. Ind. Pop.—				Pov Pop.—Lauderdale Co.....	4
Harrison Co.....	1			County—Lauderdale	
Hinds				Parts:	
Service Area: Jackson Inner-City.....	1			Pov. Pop.	
Service Area: South West Rural Hinds.....	1	Centreville.....	2	Pov. Pop.—Alcorn Co.....	2
*Holmes.....	3	County—Amite		County—Alcorn	
*Humphreys.....	1	Parts:		Parts:	
*Issaquena		Amite		Pov. Pop.	
Service Area: Issaquena/Sharkey.....	4	County—Wilkinson		Pov. Pop.—Marion Co.....	1
*Itawamba.....	3	Parts:		County—Marion	
Jackson		Wilkinson		Parts:	
Service Area: Wade-Hurley.....	2	Hollandale.....	1	Pov. Pop.	
*Jasper.....	2	County—Washington		Pov. Pop.—Warren Co.....	3
*Jefferson.....	4	Parts:		County—Warren	
*Jefferson Davis.....	2	C.T. 19-20		Parts:	
*Jones		C.T. 22		Pov. Pop.	
Population Group: Pov Pop.—Jones		Issaquena/Sharkey.....	4		
Co.....	2	County—Issaquena			
*Kemper.....	1	County—Sharkey			
*Lafayette.....	4	Jackson Inner-City.....	1		
*Lamar.....	3	County—Hinds			
*Lauderdale		Parts:			
Population Group: Pov Pop.—Lauder-		C.T. 5-12			
dale Co.....	4	C.T. 17-21			
*Lawrence.....	3	C.T. 24-32			
*Leake.....	3	C.T. 102.01			
*Leflore.....	4	C.T. 102.03			
Madison.....	4	C.T. 103.01			
*Marion		C.T. 108.01			
Population Group: Pov. Pop.—Marion		C.T. 109.02			
Co.....	1	Pelahatchie-Puckett.....	2		
*Marshall.....	1	County—Rankin			
*Neshoba.....	2	Parts:			
*Noxubee.....	4	C.T. 201			
*Panola		C.T. 209			
Population Group: Med. Ind.—Panola		Rosedale.....	1		
Co.....	1	County—Bolivar			
*Perry.....	4	Parts:			
*Pontotoc.....	3	*Rosedale Town			
*Quitman.....	3	South West Rural Hinds.....	1		
Rankin		County—Hinds			
Service Area: Pelahatchie-Puckett.....	2	Parts:			
*Scott.....	3	C.T. 105-107			
*Sharkey		C.T. 112-113			
Service Area: Issaquena/Sharkey.....	4	Wade-Hurley.....	2		
*Smith.....	2	County—Jackson			
*Stone.....	3	Parts:			
*Sunflower		C.T. 401-402			
Population Group: Med. Ind. Pop.—					
Bolivar/Sunflower.....	2				
Facility: Mississippi State Pen.....	2				

PRIMARY CARE: Mississippi

Service Area Listing

Service Area Name	Degree of shortage group
Centreville.....	2
County—Amite	
Parts:	
Amite	
County—Wilkinson	
Parts:	
Wilkinson	
Hollandale.....	1
County—Washington	
Parts:	
C.T. 19-20	
C.T. 22	
Issaquena/Sharkey.....	4
County—Issaquena	
County—Sharkey	
Jackson Inner-City.....	1
County—Hinds	
Parts:	
C.T. 5-12	
C.T. 17-21	
C.T. 24-32	
C.T. 102.01	
C.T. 102.03	
C.T. 103.01	
C.T. 108.01	
C.T. 109.02	
Pelahatchie-Puckett.....	2
County—Rankin	
Parts:	
C.T. 201	
C.T. 209	
Rosedale.....	1
County—Bolivar	
Parts:	
*Rosedale Town	
South West Rural Hinds.....	1
County—Hinds	
Parts:	
C.T. 105-107	
C.T. 112-113	
Wade-Hurley.....	2
County—Jackson	
Parts:	
C.T. 401-402	

PRIMARY CARE: Mississippi

Facility Listing

Facility Name	Degree of shortage group
Mississippi State Pen.....	2
County—Sunflower 4	

PRIMARY CARE: Missouri

County Listing

County Name	Degree of shortage group
*Andrew	
Service Area: Savannah.....	2
*Bollinger.....	1
*Caldwell.....	2
*Callaway	
Service Area: Fulton.....	4
Facility: Renz Corr. C.....	2
*Carter.....	1
*Clark.....	3
*Cole	
Facility: Algoa Corr. C.....	2
Facility: Central Missouri Corr. C.....	2

PRIMARY CARE: Missouri—Continued

County Listing

County Name	Degree of shortage group
Facility: Missouri State Pen.....	2
*Cooper	
Service Area: Bunceton	2
*Crawford.....	3
*Dade.....	4
*Dallas.....	3
*Davies.....	3
*De Kalb.....	2
*Dent.....	4
*Douglas.....	2
Franklin	
Facility: Missouri Eastern Corr. C.....	2
*Hickory.....	1
*Holt.....	2
*Howard.....	3
Jackson	
Service Area: Richard Cabot.....	2
Population Group: Pov. Pop.—Central K.C.....	2
Jefferson	
Service Area: Hillsboro.....	2
*Johnson.....	3
*Knox.....	4
*Laclede.....	2
*Lewis.....	2
*Maries.....	1
*McDonald.....	2
*Mercer.....	1
*Miller.....	3
*Mississippi	
Service Area: East Prairie.....	3
*Montgomery.....	3
*New Madrid	
Service Area: New Madrid.....	2
*Nodaway.....	4
*Oregon.....	1
*Osage.....	2
*Ozark.....	1
*Pemiscol.....	4
*Pulaski.....	2
*Randolph	
Facility: Missouri Training C./Men.....	2
*Reynolds.....	1
*Ripley.....	2
*Shannon.....	1
St Louis	
Population Group: Pov. Pop.—West St. Louis.....	1
Population Group: Pov. Pop.—Kinlock/Berkeley.....	1
St Louis City	
Population Group: Pov. Pop.—Yeatman/Union-Sarah.....	2
Population Group: Pov. Pop.—West St. Louis.....	1
Population Group: Pov. Pop.—Grace Hill/Cochran.....	1
Population Group: Pov. Pop.—N. St. Louis.....	2
Population Group: Pov. Pop.—Southeast St. Louis.....	1
*Stone.....	2
*Texas.....	4
*Washington.....	1
*Wayne.....	3
*Webster.....	4
*Worth.....	1
*Wright.....	4

PRIMARY CARE: Missouri

Service Area Listing

Service Area Name	Degree of shortage group
Bunceton.....	2
County—Cooper	
Parts:	
*Clark Fork Twp.	
*Clear Creek Twp.	
*Kelley Twp.	
*Lebanon Twp.	
*N. Moniteau Twp.	
*Oterville Twp.	
*Palestine Twp.	
*Pilot Grove Twp.	
*Prairie Home Twp.	
*South Moniteau Twp.	
East Prairie.....	3
County—Mississippi	
Parts:	
*James Bayou Twp.	
*Mississippi Twp.	
*St. James Twp.—E. Prairie	
*Wolf Island Twp.	
Fulton.....	4
County—Callaway	
Parts:	
*Auxvasse Twp.	
*Bourbon Twp.	
*Caldwell Twp.	
*Calwood Twp.	
*Cedar Twp.	
*Cleveland Twp.	
*Cote Sans Dessein Twp.	
*E. Fulton Twp.	
*Guthrie Twp.	
*Jackson Twp.	
*Liberty Twp.	
*Mc Credie Twp.	
*Nine Mile Prairie Twp.	
*Round Prairie Twp.	
*Shamrock Twp.	
*St. Aubert Twp.	
*W. Fulton Twp.	
Hillsboro.....	2
County—Jefferson	
Parts:	
Big River Twp.	
Central Twp.	
Plattin Twp.	
Valle Twp.	
New Madrid.....	2
County—New Madrid	
Parts:	
Anderson Twp.	
Como Twp.	
Hough Twp.	
La Font Twp.	
Le Sieur Twp.	
Lewis Twp.	
New Madrid Twp.	
Portage Twp.	
St. John Twp.	
Richard Cabot.....	2
County—Jackson	
Parts:	
C.T. 1-4	
C.T. 6-20	
C.T. 22-27	
C.T. 28.01-28.02	
C.T. 29-34	
C.T. 35.01-35.02	
C.T. 36.01-36.02	
C.T. 37-45	
C.T. 59.01	
Savannah.....	2
County—Andrew	
Parts:	
*Beaton Twp.	
*Clay Twp.	

PRIMARY CARE: Missouri—Continued

Service Area Listing

Service Area Name	Degree of shortage group
*Empire Twp.	
*Jackson Twp.	
*Monroe Twp.	
*Nodaway Twp. (Savannah)	
*Platte Twp.	
*Rochester Twp.	
PRIMARY CARE: Missouri	
Population Group Listing	
Population Group	Degree of shortage group
Pov. Pop.—Central K.C.....	2
County—Jackson	
Parts:	
C.T. 49-55	
C.T. 56.01-56.02	
C.T. 57	
C.T. 58.01-58.02	
C.T. 60-67	
C.T. 75-77	
C.T. 78.01-78.02	
C.T. 79-80	
C.T. 87-89	
C.T. 96	
Pov. Pop.—Grace Hill/Cochran.....	1
County—St Louis City	
Parts:	
C.T. 1085	
C.T. 1096-1097	
C.T. 1202-1203	
C.T. 1213-1214	
C.T. 1222	
C.T. 1255-1257	
C.T. 1266-1267	
Pov. Pop.—Kinlock/Berkeley.....	1
County—St Louis	
Parts:	
C.T. 2127-2129	
Pov. Pop.—N. St. Louis.....	2
County—St Louis City	
Parts:	
C.T. 1061-1067	
C.T. 1071-1075	
C.T. 2139-2140	
Pov. Pop.—Southeast St. Louis.....	1
County—St Louis City	
Parts:	
C.T. 1018	
C.T. 1156-1157	
C.T. 1164-1165	
C.T. 1172-1174	
C.T. 1181	
C.T. 1185	
C.T. 1221	
C.T. 1224	
C.T. 1231-1234	
C.T. 1241-1243	
C.T. 1246	
Pov. Pop.—West St. Louis.....	1
County—St Louis	
Parts:	
C.T. 2159-2164	
County—St Louis City	
Parts:	
C.T. 1051-1055	
C.T. 1121	
Pov. Pop.—Yeatman/Union-Sarah.....	2

PRIMARY CARE: Missouri—Continued*Population Group Listing*

Population Group	Degree of shortage group
County—St Louis City	
Parts:	
C.T. 1101-1105	
C.T. 1111-1115	
C.T. 1122-1124	
C.T. 1184	
C.T. 1186	
C.T. 1191-1193	
C.T. 1201	
C.T. 1211-1212	

PRIMARY CARE: Missouri*Facility Listing*

Facility Name	Degree of shortage group
Alcoa Corr. C.	2
County—Cole	
Central Missouri Corr. C.	2
County—Cole	
Missouri Eastern Corr. C.	2
County—Franklin	
Missouri State Pen.	2
County—Cole	
Missouri Training C./Men.	2
County—Randolph	
Renz Corr. C.	2
County—Callaway	

PRIMARY CARE: Montana*County Listing*

County Name	Degree of shortage group
*Big Horn	4
*Blaine	1
*Carter	1
*Chouteau	2
*Custer	
Service Area: Baker (Mt/Nd)	4
*Daniels	3
*Deer Lodge	
Facility: Montana State Prs.	3
*Fallon	
Service Area: Baker (Mt/Nd)	4
*Gallatin	
Service Area: Ennis/W. Yellowstone	2
Service Area: Three Forks/Manhattan	4
*Garfield	1
*Glacier	1
*Hill	
Service Area: Chester	1
*Jefferson	
Service Area: Boulder	1
*Judith Basin	1
*Lewis And Clark	
Service Area: Choteau	3
Service Area: Lincoln	2
*Liberty	
Service Area: Chester	1
*Madison	
Service Area: Ennis/W. Yellowstone	2
Service Area: Sheridan/Twin Bridges	2
*Meagher	1
*Musselshell	3

PRIMARY CARE: Montana—Continued*County Listing*

County Name	Degree of shortage group
*Park	
Service Area: Gardiner/Mammoth Hot Springs	1
*Petroleum	1
*Phillips	1
*Powder River	2
*Powell	
Service Area: Deer Lodge	2
Service Area: Lincoln	2
*Roosevelt	
Service Area: Poplar/Wolf Point	1
*Rosebud	
Service Area: Forsyth/Colstrip	4
*Sweet Grass	1
*Teton	
Service Area: Choteau	3
*Toole	
Service Area: Chester	1
Service Area: Shelby	2
*Treasure	
Service Area: Forsyth/Colstrip	4
*Valley	4
*Wibaux	
Service Area: Baker (Mt/Nd)	4
Service Area: Wibaux	1

PRIMARY CARE: Montana*Service Area Listing*

Service Area Name	Degree of shortage group
Baker (Mt/Nd)	4
County—Custer	
Parts:	
*Shirley-Ismay Div.	
County—Fallon	
County—Wibaux	
Parts:	
*Pine Hills-St. Phil. Div.	
Boulder	1
County—Jefferson	
Parts:	
*Boulder Div.	
Chester	1
County—Hill	
Parts:	
*Gildford Div. (W 1/2)	
*Rudyard Div.	
County—Liberty	
County—Toole	
Parts:	
*S. Toole Div. (E 1/3)	
Choteau	3
County—Lewis And Clark	
Parts:	
*Augusta Div.	
County—Teton	
Parts:	
*Choteau Div.	
*Fairfield Div.	
Deer Lodge	2
County—Powell	
Parts:	
*Avon Elliston Div.	
*Deer Lodge Div.	
Ennis/W. Yellowstone	2
County—Gallatin	
Parts:	
*West Yellowstone Div.	

PRIMARY CARE: Montana—Continued*Service Area Listing*

Service Area Name	Degree of shortage group
County—Madison	
Parts:	
*Harrison Div.	
*Madison Valley Div.	
*Virginia City Div.	
Forsyth/Colstrip	4
County—Rosebud	
County—Treasure	
Gardiner/Mammoth Hot Springs	1
County—Park	
Parts:	
*Gardiner-Cooke Div.	
Lincoln	2
County—Lewis And Clark	
Parts:	
*Lincoln Div.	
County—Powell	
Parts:	
*Helmville Div.	
Poplar/Wolf Point	1
County—Roosevelt	
Parts:	
*Ft. Peck Res. Div.	
Shelby	2
County—Toole	
Parts:	
*S. Toole Div. (W 2/3)	
*Shelby City	
*Sunburst Div.	
Sheridan/Twin Bridges	2
County—Madison	
Parts:	
*Sheridan Div.	
*Twin Bridges Div.	
Three Forks/Manhattan	4
County—Gallatin	
Parts:	
Manhattan Div. (N.1/3)	
Three Forks Div.	
Wibaux	1
County—Wibaux	
Parts:	
*Wibaux Div.	

PRIMARY CARE: Montana*Facility Listing*

Facility Name	Degree of shortage group
Montana State Prs.	3
County—Deer Lodge	
Montana State Prs.	

PRIMARY CARE: Nebraska*County Listing*

County Name	Degree of shortage group
*Boone	
Service Area: Albion	3
*Brown	
Service Area: North Central	3
*Cass	4
*Cedar	
Service Area: Cedar/Dixon	3

PRIMARY CARE: Nebraska—Continued

County Listing

County Name	Degree of shortage group
*Chase	3
*Cherry	
Service Area: Mullen.....	1
Service Area: Valentine.....	2
*Cuming	
Service Area: West Point.....	2
*Dawes	
Service Area: Crawford	4
*Dixon	
Service Area: Cedar/Dixon.....	3
Douglas	
Population Group: Medicaid—N.E./S.E.	
Omaha	4
*Franklin	
Service Area: Franklin.....	4
*Frontier	2
*Grant	
Service Area: Mullen.....	1
*Greeley	
Service Area: Albion.....	3
Service Area: Howard/St. Paul	3
*Hayes	
Service Area: Hayes/Hitchcock.....	1
*Hitchcock	
Service Area: Hayes/Hitchcock.....	1
*Hooker	
Service Area: Mullen.....	1
*Howard	
Service Area: Howard/St. Paul	3
*Johnson.....	2
*Keya Paha	
Service Area: North Central.....	3
*Kimball.....	2
Lancaster	
Facility: Lancaster Dept. Of Corr.	3
*Madison	
Service Area: Albion.....	3
*Platte	
Service Area: Albion.....	3
*Polk	2
*Rock	
Service Area: North Central.....	3
*Saunders	
Service Area: Wahoo.....	2
*Sherman.....	2
*Sioux	
Service Area: Crawford	4
*Stanton	2
*Thayer	4
*Thomas	
Service Area: Mullen.....	1
*Thurston	
Population Group: Winnebago Indian	
Pop.....	1
*Webster	4

PRIMARY CARE: Nebraska

Service Area Listing

Service Area Name	Degree of shortage group
Albion.....	3
County—Greeley	
Parts:	
*Spalding Pre. 1	
*Spalding Pre. 2	
County—Madison	
Parts:	
*Newman Grove City	
*Shell Creek Prec.	

PRIMARY CARE: Nebraska—Continued

Service Area Listing

Service Area Name	Degree of shortage group
County—Boone	
County—Platte	
Parts:	
*St. Bernard Twp.	
*Walker Twp.	
Cedar/Dixon	3
County—Cedar	
County—Dixon	
Parts:	
*Clark Twp.	
*Concord Twp.	
*Daily Twp.	
*Galena Twp.	
*Hooker Twp.	
*Newcastle Twp.	
*Otter Creek Twp.	
*Ponca Twp.	
*Ponca City	
*Silver Creek Twp.	
*Spring Bank Twp.	
Crawford	4
County—Dawes	
Parts:	
*Leonard Pre.	
*North Crawford Pre.	
*South Crawford Pre.	
*Whitney Pre.	
County—Sioux	
Parts:	
*Bowen Pre.	
*Hat Creek Pre.	
*Warbonnet Pre.	
*Whistle Creek Pre.	
Franklin	4
County—Franklin	
Parts:	
*Antelope Twp.	
*Bloomington Twp.	
*Franklin City	
*Grant Twp.	
*Macon Twp.	
*Marion Twp.	
*N. Franklin Twp.	
*Salem Twp.	
*Washington Twp.	
Hayes/Hitchcock	1
County—Dundy	
County—Hayes	
County—Hitchcock	
Howard/St. Paul.....	3
County—Greeley	
Parts:	
*Greeley Pre.	
*Scotia 1 Pre.	
*Wolbach Pre.	
County—Howard	
Mullen.....	1
County—Cherry	
Parts:	
*Calf Creek Pre.	
*Goose Creek Pre.	
*King Pre.	
*Lackey Pre.	
*Loup Pre.	
*Mother Lake Pre.	
*Wells Pre.	
County—Grant	
County—Hooker	
County—Thomas	
North Central.....	3
County—Brown	
County—Keya Paha	
County—Rock	
Onawa (Iowa/Neb)	0
Parts:	
Decatur Twp.	

PRIMARY CARE: Nebraska—Continued

Service Area Listing

Service Area Name	Degree of shortage group
Quinnebaugh Twp.	
Riverside Twp.	
Silver Creek Twp.	
Valentine	2
County—Cherry	
Parts:	
*Barley Pre.	
*Cleveland Pre.	
*Cody Pre.	
*Crookston Pre.	
*Gillaspie Pre.	
*Kennedy Pre.	
*Kilgore Pre.	
*Merriman Pre.	
*Nenzel Pre.	
*Russell Pre.	
*Valentine City	
*Valentine Pre.	
*Wood Lake Pre.	
Wahoo	2
County—Saunders	
Parts:	
*Ashland Twp.	
*Center Twp.	
*Chapman Twp.	
*Chester	
*Clear Creek Twp.	
*Douglas Twp.	
*Elk Twp.	
*Green Twp.	
*Marble Twp.	
*Marietta Twp.	
*Mariposa Twp.	
*Newman Twp.	
*Oak Creek Twp.	
*Richland Twp.	
*Rock Creek Twp.	
*South Cedar Twp.	
*Stocking Twp.	
*Union Twp.	
*Wahoo City	
*Wahoo Twp.	
West Point	2
County—Cuming	
Parts:	
Beemer Twp.	
Bismark Twp.	
Blaine Twp.	
Cuming Twp.	
Elkhorn Twp.	
Garfield Twp.	
Grant Twp.	
Lincoln Twp.	
Logan Twp.	
Monterey Twp.	
Neleigh Twp.	
Sherman Twp.	
St Charles Twp.	
West Point City	
Wisner City	
Wisner Twp.	

PRIMARY CARE: Nebraska*Population Group Listing*

Population Group	Degree of shortage group
Medicaid—N.E./S.E. Omaha County—Douglas Parts: C.T. 3 C.T. 6-12 C.T. 13.01-13.02 C.T. 14-19 C.T. 39-41 C.T. 51-54 C.T. 59.01-59.02 C.T. 60 C.T. 61.01-61.02	4
Winnebago Indian Pop. County—Thurston	1

PRIMARY CARE: Nebraska*Facility Listing*

Facility Name	Degree of shortage group
Lancaster Dept. Of Corr. County—Lancaster Diagnostic & Evaluation C. Lincoln Corr. C. Nebraska State Pen.	3

PRIMARY CARE: Nevada*County Listing*

County Name	Degree of shortage group
Carson City (Indep)	
Facility: Nev. St. Corr. Fac. (North)	1
Clark	
Service Area: Blue Diamond	1
Service Area: Cent./N. Cent. Las Vegas	1
Service Area: Indian Springs	1
Service Area: Jean-Goodspring	1
Service Area: Moapa Valley	1
Service Area: Searchlight/Davis Dam	1
Service Area: Virgin Valley	1
Population Group: Washoe Indian Tribe	1
Facility: Nev. St. Corr. Fac. (South)	2
*Douglas	
Population Group: Washoe Indian Tribe	1
*Elko	
Service Area: Wendover (Ut/Nv)	1
Esmeralda	
Service Area: Tonopah/Esmeralda	2
*Eureka	1
*Lander	1
*Lincoln	1
*Mineral	2
*Nye	
Service Area: Beatty	1
Service Area: Pahrump	1
Service Area: Tonopah/Esmeralda	2
*Storey	1
Washoe	
Service Area: Gerlach	1
Service Area: Wadsworth	1
*White Pine	
Service Area: Wendover (Ut/Nv)	1

PRIMARY CARE: Nevada*Service Area Listing*

Service Area Name	Degree of shortage group
Beatty	1
County—Nye	
Parts: Beatty Twp.	
Blue Diamond	1
County—Clark	
Parts: C.T. 59 (Central)	
Cent./N. Cent. Las Vegas	1
County—Clark	
Parts: C.T. 3.01-3.02 C.T. 7 C.T. 9 C.T. 11 C.T. 35-38 C.T. 48	
Gerlach	1
County—Washoe	
Parts: Gerlach Twp.	
Indian Springs	1
County—Clark	
Parts: C.T. 58-59 (Southwest)	
Jean-Goodspring	1
County—Clark	
Parts: Goodsprings Twp.	
Moapa Valley	1
County—Clark	
Parts: Moapa Twp. (N.E. Part)	
Pahrump	1
County—Nye	
Parts: Pahrump Twp.	
Searchlight/Davis Dam	1
County—Clark	
Parts: Searchlight Twp.	
Tonopah/Esmeralda	2
County—Esmeralda	
County—Nye	
Parts: Tonopah Twp.	
Virgin Valley	1
County—Clark	
Parts: Bunkerville Twp. Mesquite Twp.	
Wadsworth	1
County—Washoe	
Parts: C.T. 31	
Wendover (Ut/Nv)	1
County—Elko	
Parts: *East Line Twp. *Tecoma Twp.	
County—White Pine	
Parts: *Ely Twp. (E. Pl.)	

PRIMARY CARE: Nevada*Population Group Listing*

Population Group	Degree of shortage group
Washoe Indian Tribe County—Clark Parts: Dresslerville Ranch	1
County—Douglas Parts: Washoe Ranch Carson Colony	

PRIMARY CARE: Nevada*Facility Listing*

Facility Name	Degree of shortage group
Nev. St. Corr. Fac. (South) County—Clark S. Desert Corr. C. S. Nev. Corr. C.	2
Nev. St. Corr. Fac. (North) County—Carson City (Indep) N. Nev. Med. Security Prs. Nev. Max. Security Prs. Nev. Womens Corr. C.	1

PRIMARY CARE: New Hampshire*County Listing*

County Name	Degree of shortage group
*Grafton	
Service Area: Baker River Valley	1
Hillsboro	
Service Area: Hillsborough	2
Merrimack	
Service Area: Hillsborough	2
Rockingham	
Service Area: North West Rockingham	
County	2
*Sullivan	
Service Area: Hillsborough	2

PRIMARY CARE: New Hampshire*Service Area Listing*

Service Area Name	Degree of shortage group
Baker River Valley	1
County—Grafton	
Parts: *Rumney Twn. *Warren Twn. *Wentworth Twn.	
Hillsborough	2
County—Hillsboro	
Parts: Deering Twn. Hillsborough Twn. Weare Twn.—Western Pl. Windsor Twn.	

PRIMARY CARE: New Hampshire—Continued*Service Area Listing*

Service Area Name	Degree of shortage group
County—Merrimack Parts: Henniker Twn. County—Sullivan Parts: *Washington Twn. North West Rockingham County County—Rockingham Parts: Deerfield Twn. Epping Twn. Fremont Twn. Nottingham Twn. Raymond Twn.	2

PRIMARY CARE: New Jersey*County Listing*

County Name	Degree of shortage group
Atlantic Service Area: Sa-Lantic.....	4
Population Group: Pov. Pop.-Atlantic.....	1
Camden Service Area: Camden City.....	4
Cumberland Service Area: Bridgeton.....	4
Facility: Leesburg State Prs.....	2
Essex Service Area: Central Newark.....	4
Service Area: North Newark.....	4
Service Area: South Newark.....	4
Hudson Population Group: Medicaid—Jersey City.....	1
Mercer Population Group: Medicaid—Trenton.....	1
Passaic Service Area: Northside Paterson.....	3
Salem Service Area: Bridgeton.....	4
Sussex Service Area: South Sussex.....	4

PRIMARY CARE: New Jersey*Service Area Listing*

Service Area Name	Degree of shortage group
Bridgeton.....	4
County—Cumberland County—Salem Parts: Pittsgrove Twp.	
Camden City.....	4
County—Camden Parts: C.T. 6001-6020	
Central Newark County—Essex Parts: C.T. 13-14 C.T. 18 C.T. 26-32	4

PRIMARY CARE: New Jersey—Continued*Service Area Listing*

Service Area Name	Degree of shortage group
C.T. 34-35 C.T. 37-40 C.T. 55-60 C.T. 62-68 C.T. 80-83 North Newark.....	4
County—Essex Parts: C.T. 1-11 C.T. 15-17 C.T. 84-97 Northside Paterson.....	3
County—Passaic Parts: C.T. 1803-1807 Sa-Lantic.....	4
County—Atlantic Parts: Buena Boro. Buena Vista Twp. Egg Harbor City Folsom Boro. Hamilton Twp. Hammononton Twp. Mullica Twp. Weymouth Twp.	
South Newark.....	4
County—Essex Parts: C.T. 41-47 C.T. 48.01-48.02 C.T. 49-54 South Sussex.....	4
County—Sussex Parts: Andover Twp. Branchville Boro. Byram Twp. Frankford Twp. Franklin Boro. Fredon Twp. Green Twp. Hamburg Boro. Hampton Twp. Hardyston Twp. Hopatcong Boro. Lafayette Twp. Newton Twp. Ogdensburg Boro. Sparta Twp. Stanhope Boro. Stillwater Twp. Sussex Boro. Vernon Twp. Wantage Twp.	

PRIMARY CARE: New Jersey*Population Group Listing*

Population Group	Degree of shortage group
Medicaid—Jersey City.....	1
County—Hudson Parts: Jersey City—Medicaid	
Medicaid—Trenton.....	1
County—Mercer Parts: Trenton—Medicaid	

PRIMARY CARE: New Jersey—Continued*Population Group Listing*

Population Group	Degree of shortage group
Pov. Pop.-Atlantic..... County—Atlantic Parts: Atlantic City—Pov.	1

PRIMARY CARE: New Jersey*Facility Listing*

Facility Name	Degree of shortage group
Leesburg State Prs..... County—Cumberland	2

PRIMARY CARE: New Mexico*County Listing*

County Name	Degree of shortage group
Bernalillo Service Area: Southwest Valley.....	1
*Catron.....	1
*Chaves Service Area: Cloudcroft.....	3
Service Area: Dexter—Hagerman.....	1
*Cibola.....	2
Facility: Western N.M. Corr. Fac.....	3
Dona Ana Service Area: Hatch.....	1
Service Area: Southern Dona Ana.....	1
Facility: Southern N.M. Corr. Fac.....	3
*Eddy Population Group: Med. Ind. Pop.—Eddy Co.....	2
*Grant Service Area: Cliff-Gila.....	1
*Guadalupe Service Area: Pecos.....	1
*Harding Service Area: North Harding/Wagon Mound.....	1
Service Area: Quay/S. Harding/Conchas Dam.....	2
*Hidalgo.....	2
*Lincoln Service Area: Torrance/Claunich/Corona.....	1
*Luna.....	2
*McKinley.....	2
*Mora Service Area: Mora.....	4
Service Area: North Harding/Wagon Mound.....	1
*Otero Service Area: Cloudcroft.....	3
Quay Service Area: Quay/S. Harding/Conchas Dam.....	2
*Rio Arriba Service Area: South Rio Arriba/Taos.....	1
Service Area: Tierra Amarilla.....	1
*Roosevelt.....	4
*San Juan Population Group: Am. In. Pop.—San Juan.....	1

**PRIMARY CARE: New Mexico—
Continued***County Listing*

County Name	Degree of shortage group
*San Miguel	
Service Area: Pecos	1
Service Area: Quay/S. Harding/Conchas Dam	2
*Sandoval	
Service Area: Cuba	2
Service Area: Southern Sandoval	1
Santa Fe	
Service Area: Santa Fe/La Familia	4
Facility: N.M. State Pen.—Cerrillos	3
*Sierra	
Service Area: Hatch	1
*Socorro	
Service Area: Magdalena	1
Service Area: Torrance/Claunch/Corona	1
*Taos	
Service Area: Questo/Arroyo Hondo	2
Service Area: South Rio Arriba/Taos	1
Torrance	
Service Area: Torrance/Claunch/Corona	1
*Union	
*Valencia	
Service Area: Los Lunas	2
Facility: Central N.M. Corr. Fac.	3

PRIMARY CARE: New Mexico*Service Area Listing*

Service Area Name	Degree of shortage group
Cliff-Gila	1
County—Grant	
Parts:	
*E.D. 801 (Pinos Altos)	
*E.D. 803 (Pinos Altos)	
*E.D. 805-806 (Tyrone)	
Cloudcroft	3
County—Chaves	
Parts:	
S.W. Chaves CCD (W. 1/2)	
County—Otero	
Parts:	
E.D. 715 (S.E. Otero CCD)	
E.D. 717-720 (S.E. Otero CCD)	
E.D. 722-723 (S.E. Otero CCD)	
Cuba	2
County—Sandoval	
Parts:	
*Cuba CCD	
*Jemez CCD	
Dexter—Hagerman	1
County—Chaves	
Parts:	
Dexter CCD	
Hagerman CCD	
Hatch	1
County—Dona Ana	
Parts:	
N. Dona Ana Hill CCD (N1/2)	
N. Dona Ana Hill CCD (N1/2)	
County—Sierra	
Parts:	
E.D. 632 (Tr. Or Consq. E. CCD)	
Los Lunas	2
County—Valencia	
Parts:	
Los Lunas CCD	

**PRIMARY CARE: New Mexico—
Continued***Service Area Listing*

Service Area Name	Degree of shortage group
Magdalena	1
County—Socorro	
Parts:	
*Magdalena CCD	
Mora	4
County—Mora	
Parts:	
*Mora CCD	
North Harding/Wagon Mound	1
County—Harding	
Parts:	
North Harding CCD	
County—Mora	
Parts:	
Wagon Mound CCD	
Pecos	1
County—Guadalupe	
Parts:	
*Dilla CCD	
County—San Miguel	
Parts:	
*Pecos CCD	
*Villanueva CCD	
Quay/S. Harding/Conchas Dam	2
County—Harding	
Parts:	
South Harding CCD	
County—Quay	
County—San Miguel	
Parts:	
Conchas Dam CCD	
Questo/Arroyo Hondo	2
County—Taos	
Parts:	
Arroyo Hondo CCD	
Questo CCD	
Santa Fe/La Familia	4
County—Santa Fe	
Parts:	
C.T. 3 (Tr. Or Consq. E. CCD)	
C.T. 7-9	
C.T. 10.02	
C.T. 12	
South Rio Arriba/Taos	1
County—Rio Arriba	
Parts:	
*Chimayo CCD	
*Dixon CCD	
*South Rio Arriba CCD	
County—Taos	
Parts:	
*Penasco CCD	
*Picuris CCD	
Southern Dona Ana	1
County—Dona Ana	
Parts:	
Anthony CCD	
Southern Dona Ana CCD	
Southern Sandoval	1
County—Sandoval	
Parts:	
*Bernalillo CCD (N. 1/2)	
*Jemez CCD	
*Santo Domingo CCD	
Southwest Valley	1
County—Bernalillo	
Parts:	
C.T. 23	
C.T. 24.01-24.02	
C.T. 40	
C.T. 43	
C.T. 44.01-44.02	
C.T. 45.01-45.02	
C.T. 46.01-46.02	

**PRIMARY CARE: New Mexico—
Continued***Service Area Listing*

Service Area Name	Degree of shortage group
Tierra Amarilla	1
County—Rio Arriba	
Parts:	
*Coyote CCD	
*Jicarilla CCD	
*Rio Chama CCD	
*Tierra Amarilla CCD	
*Vallecitas CCD	
*Western Rio Arriba CCD	
Torrance/Claunch/Corona	1
County—Lincoln	
Parts:	
Corona CCD	
County—Socorro	
Parts:	
Clauch CCD	
County—Torrance	

PRIMARY CARE: New Mexico*Population Group Listing*

Population Group	Degree of shortage group
Am. In. Pop.—San Juan	1
County—San Juan	
Parts:	
Am. In. Pop.	
Med. Ind. Pop.—Eddy Co.	2
County—Eddy	
Parts:	
Med. Ind. Pop.	

PRIMARY CARE: New Mexico*Facility Listing*

Facility Name	Degree of shortage group
Central N.M. Corr. Fac.	3
County—Valencia	
N.M. State Pen.—Cerrillos	3
County—Santa Fe	
Southern N.M. Corr. Fac.	3
County—Dona Ana	
Western N.M. Corr. Fac.	3
County—Cibola 2	

PRIMARY CARE: New York*County Listing*

County Name	Degree of shortage group
Albany	
Service Area: Northeast Albany	1
Service Area: Southeast Albany City	3
*Allegany	
Service Area: Arcade	2
Service Area: Letchworth	4

PRIMARY CARE: New York—Continued

County Listing	
County Name	Degree of shortage group
Bronx	
Service Area: Morris Heights.....	1
Service Area: Soundview.....	2
Facility: Nyc Corr. Fac./Riker'S Island.....	3
Broome	
Service Area: Deposit.....	2
*Cattaraugus	
Service Area: Arcade.....	2
Service Area: Randolph/Ellicottville.....	3
*Cayuga	
Service Area: Cato.....	1
Service Area: Groton/Moravia.....	3
*Chautauqua	
Service Area: Westfield.....	4
*Chenango	
Service Area: Greene.....	2
Service Area: Marathon.....	2
*Clinton	
Service Area: Dannemora.....	2
*Columbia	
Service Area: Southeast Columbia.....	2
*Cortland	
Service Area: Marathon.....	2
*Delaware	
Service Area: Deposit.....	2
Service Area: Hancock/Colchester.....	2
Erie	
Service Area: Black Rock/Riverside (Buffalo).....	2
Service Area: Ellicott Neighborhood—(buffalo).....	2
Population Group: Pov. Pop. (P.S. 84 Area).....	1
Population Group: Pov. Pop.—Lower West Side.....	1
*Essex	
Service Area: Central Adirondack.....	2
Service Area: E. Cent. Essex.....	4
Service Area: Warrensburg.....	3
*Franklin	
Service Area: Tupper Lake.....	1
Greene	
Service Area: Cairo.....	3
Service Area: Western Greene.....	3
*Hamilton	
Service Area: Central Adirondack.....	2
Service Area: South Hamilton.....	2
Service Area: Webb.....	2
Herkimer	
Service Area: Webb.....	2
*Jefferson	
Service Area: Alexandria Bay.....	3
Service Area: Gouverneur.....	2
Kings	
Service Area: Brownsville.....	4
Population Group: Pov. Pop.—Bedford/Bushwick.....	1
*Lewis	
Service Area: Boonville.....	3
Service Area: Camden.....	2
Livingston	
Service Area: Letchworth.....	4
Service Area: N. Livingston.....	2
Madison	
Service Area: Marathon.....	2
Monroe	
Service Area: Jordan (Rochester).....	4
Service Area: Westside (Rochester).....	1
Montgomery	
Service Area: Western Montgomery.....	2
New York	
Service Area: East Harlem.....	3
Service Area: Upper West Side.....	4
Service Area: West Central Harlem.....	4
Population Group: Chinese Pop / Lower East Side.....	4

PRIMARY CARE: New York—Continued

County Listing	
County Name	Degree of shortage group
Population Group: Homeless & Pov. Pop.—Chelsea.....	1
Facility: Bellevue Hosp. Center.....	3
Oneida	
Service Area: Boonville.....	3
Service Area: Camden.....	2
Population Group: Pov. Pop.—City Of Utica.....	3
Onondaga	
Service Area: Southern Onondaga.....	2
Population Group: Pov Pop/Syracuse.....	4
Orange	
Population Group: Med. Ind. / Mig.—N.E. Orange.....	4
Population Group: Mig. / Med. Ind.—S.W. Orange.....	2
Orleans	
Service Area: Oak Orchard.....	3
Oswego	
Service Area: Pulaski.....	4
*Otsego	
Service Area: Cherry Valley.....	1
Service Area: Southeast Otsego.....	1
Service Area: Southwest Otsego.....	2
Service Area: Western Otsego.....	1
Queens	
Service Area: Central South Jamaica.....	1
Population Group: Medicaid—Rockaway.....	4
Saratoga	
Service Area: Corinth/Luzerne.....	3
Schenectady	
Population Group: Pov. Pop.—Hamilton Hill/Mt. Pleasant.....	1
*Schoharie	
Service Area: Cherry Valley.....	1
Service Area: Southern Schoharie.....	2
*Schuyler	
Service Area: South Seneca.....	3
*Seneca	
Service Area: South Seneca.....	3
*St Lawrence	
Service Area: Alexandria Bay.....	3
Service Area: Gouverneur.....	2
Service Area: Massena.....	4
Service Area: Starlake.....	4
Service Area: Tupper Lake.....	1
*Steuben	
Service Area: Elkland (Ny/Pa).....	2
*Sullivan	
Service Area: Cohecton.....	4
*Tompkins	
Service Area: Groton/Moravia.....	3
Warren	
Service Area: Corinth/Luzerne.....	3
Service Area: Warrensburg.....	3
Wayne	
Service Area: Sodus.....	3
Westchester	
Service Area: Peekskill.....	3
Service Area: Southwest Yonkers.....	1
Population Group: Pov. Pop./S. Mt. Vernon.....	4
*Wyoming	
Service Area: Arcade.....	2
Service Area: Letchworth.....	4
Facility: Attica Corr. Fac.....	2
*Yates.....	4

PRIMARY CARE: New York

Service Area Listing	
Service Area Name	Degree of shortage group
Alexandria Bay.....	3
County—Jefferson	
Parts:	
*Alexandria Twn.	
*Cape Vincent Twn.	
*Clayton Twn.	
*Lyme Twn.	
*Orleans Twn.	
*Philadelphia Twn.	
*Teresa Twn.	
County—St Lawrence	
Parts:	
*Hammond Twn.	
Arcade.....	2
County—Allegany	
Parts:	
*Centerville Twn.	
*Rushford Twn.	
County—Cattaraugus	
Parts:	
*Farmersville Twn.	
*Franklinville Twn.	
*Freedom Twn.	
*Machias Twn.	
*Yorkshire Twn.	
County—Wyoming	
Parts:	
*Arcade Twn.	
*Eagle Twn.	
*Java Twn.	
*Orangeville Twn.	
*Sheldon Twn.	
*Wethersfield Twn.	
Black Rock/Riverside (Buffalo).....	2
County—Erie	
Parts:	
C.T. 55-59	
Boonville.....	3
County—Lewis	
Parts:	
Lewis	
Layden	
Lyonsdale	
West Turin	
County—Oneida	
Parts:	
Boonville Twn.	
Boonville	
Forestport	
Brownsville.....	4
County—Kings	
Parts:	
C.T. 347	
C.T. 349	
C.T. 357	
C.T. 359	
C.T. 361	
C.T. 363	
C.T. 882	
C.T. 884	
C.T. 886	
C.T. 888	
C.T. 890	
C.T. 892	
C.T. 894	
C.T. 896	
C.T. 898	
C.T. 900	
C.T. 902	
C.T. 904	
C.T. 906	
C.T. 908	
C.T. 910	
C.T. 912	
C.T. 914	
C.T. 918	

PRIMARY CARE: New York—Continued

Service Area Listing	
Service Area Name	Degree of shortage group
C.T. 918	
C.T. 920	
C.T. 1134	
C.T. 1136	
C.T. 1138	
Cairo	3
County—Greene	
Parts:	
Cairo Twn.	
Durham Twn.	
Greenville Twn.	
Camden	2
County—Lewis	
Parts:	
*Osceola Twn.	
County—Oneida	
Parts:	
Annsville Twn.	
Camden Twn.	
Florence Twn.	
Vienna Twn.	
Cato	1
County—Cayuga	
Parts:	
*Cato Twn.	
*Conquest Twn.	
*Ira Twn.	
*Victory Twn.	
Central Adirondack	2
County—Essex	
Parts:	
*Newcomb Twn.	
County—Hamilton	
Parts:	
*Indian Lake Twn.	
*Long Lake Twn.	
Central South Jamaica	1
County—Queens	
Parts:	
C.T. 152	
C.T. 154	
C.T. 190	
C.T. 196	
C.T. 198	
C.T. 202	
C.T. 204	
C.T. 206	
C.T. 208	
C.T. 212	
C.T. 236	
C.T. 238	
C.T. 240	
C.T. 244	
C.T. 246	
C.T. 248	
C.T. 250	
C.T. 252	
C.T. 258	
C.T. 260	
C.T. 262	
C.T. 266	
C.T. 270	
C.T. 272	
C.T. 274	
C.T. 276	
C.T. 278	
C.T. 280	
C.T. 284	
C.T. 288	
C.T. 410	
C.T. 414	
C.T. 440	
C.T. 446.01-446.02	
C.T. 460	
Cherry Valley	1

PRIMARY CARE: New York—Continued

Service Area Listing	
Service Area Name	Degree of shortage group
County—Otsego	
Parts:	
*Cherry Valley Twn.	
*Roseboom Twn.	
*Springfield Twn.	
County—Schoharie	
Parts:	
*Sharon Twn.	
Cochecton	4
County—Sullivan	
Parts:	
*Cochecton Twn.	
*Delaware Twn.	
*Fremont Twn.	
*Highland Twn.	
*Tusten Twn.	
Corinth/Luzerne	3
County—Saratoga	
Parts:	
Corinth Twn.	
Day Twn.	
Edinburg Twn.	
Hadley Twn.	
County—Warren	
Parts:	
Lake Luzerne Twn.	
Stony Creek Twn.	
Dannemora	2
County—Clinton	
Parts:	
*Dannemora Twn.	
*Saranac Twn.	
Deposit	2
County—Broome	
Parts:	
Colesville Twn.	
Sanford Twn.	
Windsor Twn.	
County—Delaware	
Parts:	
*Deposit Twn.	
*Tompkins Twn.	
E. Cent. Essex	4
County—Essex	
Parts:	
*Elizabeth Twn.	
*Essex Twn.	
*Keene Twn.	
*Lewis Twn.	
*Moriah Twn.	
*North Hudson Twn.	
*Westport Twn.	
*Willsboro Twn.	
East Harlem	3
County—New York	
Parts:	
C.T. 156.02	
C.T. 156.02	
C.T. 160.20	
C.T. 162	
C.T. 164	
C.T. 166	
C.T. 168	
C.T. 170	
C.T. 172.01-172.02	
C.T. 174.01-174.02	
C.T. 178	
C.T. 180	
C.T. 182	
C.T. 184	
C.T. 188	
C.T. 192	
C.T. 194	
C.T. 196	
C.T. 198	
C.T. 202	

PRIMARY CARE: New York—Continued

Service Area Listing	
Service Area Name	Degree of shortage group
C.T. 204	
C.T. 206	
C.T. 210	
Elkland (Ny/Pa)	2
County—Steuben	
Parts:	
*Tuscarora Twn.	
*Woodhill Twn.	
Ellicott Neighborhood—(buffalo)	2
County—Erie	
Parts:	
C.T. 12	
C.T. 13.01-13.02	
C.T. 14.01-14.02	
C.T. 15-18	
C.T. 25.01-25.02	
C.T. 26	
C.T. 27.01	
C.T. 31	
Gouverneur	2
County—Jefferson	
Parts:	
*Antwerp Twn.	
County—St Lawrence	
Parts:	
*DeKalb Twn.	
*Depeyster Twn. (S. 1/2)	
*Edwards Twn.	
*Fowler Twn.	
*Gouverneur Twn.	
*Hermon Twn.	
*Macomb Twn. (S. 1/2)	
*Rossie Twn.	
Greene	2
County—Chenango	
Parts:	
*German Twn.	
*Greene Twn.	
*McDonough Twn.	
*Smithville Twn.	
Groton/Moravia	3
County—Cayuga	
Parts:	
*Locke Twn.	
*Moravia Twn.	
*Sempronius Twn.	
*Summerhill Twn.	
County—Tompkins	
Parts:	
*Groton Twn.	
Hancock/Colchester	2
County—Delaware	
Parts:	
Colchester Twn.	
Hancock Twn.	
Jordan (Rochester)	4
County—Monroe	
Parts:	
C.T. 7	
C.T. 13-15	
C.T. 39	
C.T. 43	
C.T. 48-53	
C.T. 55-56	
C.T. 80	
C.T. 91-92	
C.T. 93.01	
Letchworth	4
County—Allegany	
Parts:	
*Allen Twn.	
*Caneadea Twn.	
*Granger Twn.	
*Hume Twn.	

PRIMARY CARE: New York—Continued

Service Area Listing	Degree of shortage group
County—Livingston Parts: Portage Twn. County—Wyoming Parts: *Castile Twn. *Gainesville Twn. *Genesee Falls Twn. *Pike Twn.	2
Marathon County—Chenango Parts: *Lincklaen Twn. *Pitcher Twn. County—Cortland Parts: *Cincinnatus Twn. *Cuyler Twn. *Freetown Twn. *Hurlford Twn. *Lapeer Twn. *Marathon Twn. *Taylor Twn. *Willet Twn. County—Madison Parts: De Ruyter Twn.	4
Massena County—St Lawrence Parts: *Brasher Twn. *Lawrence Twn. *Louisville Twn. *Madrid Twn. (E. 1/2) *Massena Twn. *Norfolk Twn. *Stockholm Twn. (N. 1/2) *Waddington Twn. (E. 1/2)	1
Morris Heights County—Bronx Parts: C.T. 205 C.T. 213.01-213.02 C.T. 215.01-215.02 C.T. 217.01 C.T. 239 C.T. 243 C.T. 245 C.T. 247 C.T. 251 C.T. 253 C.T. 255 C.T. 257	2
N. Livingston County—Livingston Parts: Avon Twn. Caledonia Twn. Genesee Twn. Groveland Twn. Leicester Twn. Lima Twn. Livonia Twn. York Twn.	1
Northeast Albany County—Albany Parts: C.T. 1-2 C.T. 7-8 C.T. 11	3
Oak Orchard County—Orleans Parts: Albion Twn. Barre Twn. Carlton Twn.	

PRIMARY CARE: New York—Continued

Service Area Listing	Degree of shortage group
Clarendon Twn. Gaines Twn. Kendall Twn. Murray Twn.	3
Peekskill County—Westchester Parts: Peekskill City	4
Pulaski County—Oswego Parts: Albion Twn. Boylston Twn. Mexico Twn. Orwell Twn. Redfield Twn. Richland Twn. Sandy Creek Twn. Williamstown Twn.	3
Randolph/Ellicottville County—Cattaraugus Parts: *Cold Spring Twn. *Conewango Twn. *Ellicottville Twn. *Little Valley Twn. *Mansfield Twn. *Napoli Twn. *New Albion Twn. *Randolph Twn. *South Valley Twn.	3
Sodus County—Wayne Parts: C.T. 201 (Ontario) C.T. 204-205 (Sodus) C.T. 208-209 (Huron-Wolcott) C.T. 215-216 (Rose-Butler)	2
Soundview County—Bronx Parts: C.T. 2 C.T. 4 C.T. 16 C.T. 20 C.T. 24 C.T. 28 C.T. 36 C.T. 38 C.T. 40.02 C.T. 46 C.T. 74 C.T. 84 C.T. 86 C.T. 88 C.T. 98 C.T. 102	2
South Hamilton County—Hamilton Parts: *Arietta Twn. *Benson Twn. *Hope Twn. *Lake Pleasant Twn. *Morehouse Twn. *Wells Twn.	3
South Seneca County—Seneca Parts: *Covert Twn. *Lodi Twn. *Ovid Twn.	3
Southeast Albany City County—Albany Parts: C.T. 23-26	

PRIMARY CARE: New York—Continued

Service Area Listing	Degree of shortage group
Southeast Columbia County—Columbia Parts: *Ancram Twn. *Copake Twn. *Gallatin Twn. *Hillsdale Twn. *Taghkanic Twn.	1
Southeast Otsego County—Otsego Parts: *Decatur Twn. *Maryland Twn. *Westford Twn. *Worcester Twn.	2
Southern Onondaga County—Onondaga Parts: Fabius Twn. Lafayette Twn. Onondaga Twn. (S. 1/2) Onondaga Indian Res. Otisco Twn. Pompey Twn. Tully Twn.	2
Southern Schoharie County—Schoharie Parts: *Blenheim Twn. *Broome Twn. *Conesville Twn. *Fulton Twn. *Gilboa Twn. *Middleburgh Twn.	2
Southwest Otsego County—Otsego Parts: *Butternuts Twp. *Morris Twp.	1
Southwest Yonkers County—Westchester Parts: C.T. 1.01-1.02 C.T. 2.01-2.03 C.T. 3 C.T. 4.01-4.02 C.T. 5-6 C.T. 10 C.T. 11.01-11.02 C.T. 12 C.T. 13.01-13.03 C.T. 16	4
Starlake County—St Lawrence Parts: *Clare Twn. *Clifton Twn. *Colton Twn. (S. 1/2) *Fine Twn. *Pitcairn Twn. *Russell Twn.	1
Tupper Lake County—Franklin Parts: *Altamont Twn.	
County—St Lawrence Parts: *Piercefield Twn.	
Upper West Side County—New York Parts: C.T. 177 C.T. 179 C.T. 181 C.T. 183 C.T. 185	4

PRIMARY CARE: New York—Continued

Service Area Listing	
Service Area Name	Degree of shortage group
C.T. 187	
C.T. 189	
C.T. 191	
C.T. 193	
C.T. 195	
C.T. 197.01	
C.T. 199	
C.T. 201.01	
C.T. 203	
C.T. 205	
C.T. 207.01	
Warrensburg.....	3
County—Essex	
Parts:	
*Minerva Twn.	
County—Warren	
Parts:	
Chester Twn.	
Horicon Twn.	
Johnsburg Twn.	
Thurman Twn.	
Warrensburg Twn.	
Webb.....	2
County—Hamilton	
Parts:	
*Inlet Twn.	
County—Herkimer	
Parts:	
Webb Twn.	
West Central Harlem.....	4
County—New York	
Parts:	
C.T. 186	
C.T. 190	
C.T. 197.02	
C.T. 200	
C.T. 201.02	
C.T. 207.02	
C.T. 208	
C.T. 209.01-209.02	
C.T. 211-212	
C.T. 213.01-213.02	
C.T. 214	
C.T. 216	
C.T. 217.01-217.02	
C.T. 218-220	
C.T. 221.01-221.02	
C.T. 222-226	
C.T. 227.01-227.02	
C.T. 228-230	
C.T. 231.01-231.02	
C.T. 232-234	
C.T. 235.01-235.02	
C.T. 236-237	
C.T. 239	
C.T. 241	
C.T. 243.02	
Western Greene.....	3
County—Greene	
Parts:	
Ashland Twn.	
Hunter Twn.	
Jewett Twn.	
Lexington Twn.	
Prattville Twn.	
Windham Twn.	
Western Montgomery.....	2
County—Montgomery	
Parts:	
Canajoharie Twn.	
Minden Twn.	
Palatine Twn.	
Root Twn.	
St. Johnsville Twn.	
Western Otsego.....	1

PRIMARY CARE: New York—Continued

Service Area Listing	
Service Area Name	Degree of shortage group
County—Otsego	
Parts:	
*Burlington Twn.	
*Edmeston Twn.	
*New Lisbon Twn.	
*Pittsfield Twn.	
*Plainfield Twn.	
Westfield.....	4
County—Chautauqua	
Parts:	
*Chautauqua Twn.	
*Ripley Twn.	
*Sherman Twn.	
*Westfield Twn.	
Westside (Rochester).....	1
County—Monroe	
Parts:	
C.T. 2	
C.T. 16-17	
C.T. 23	
C.T. 27	
C.T. 32	
C.T. 41	
C.T. 64-66	
C.T. 69	
C.T. 94.03	
C.T. 95	
C.T. 96.01-96.04	

PRIMARY CARE: New York

Population Group Listing	
Population Group	Degree of shortage group
Chinese Pop / Lower East Side.....	4
County—New York	
Parts:	
C.T. 2.01-2.02	
C.T. 6	
C.T. 8	
C.T. 10.01-10.02	
C.T. 12	
C.T. 14.01-14.02	
C.T. 15.01	
C.T. 16	
C.T. 18	
C.T. 20	
C.T. 22.01-22.02	
C.T. 24-25	
C.T. 26.01-26.02	
C.T. 27-29	
C.T. 30.01-30.02	
C.T. 31-32	
C.T. 34	
C.T. 36.01-36.02	
C.T. 38	
C.T. 40-41	
C.T. 43	
C.T. 45	
Homeless & Pov. Pop.—Chelsea.....	1
County—New York	
Parts:	
Mun. Shelter For The Homeless	
Sros & Drop In Centers	
C.T. 99	
C.T. 101	
C.T. 103	
Med. Ind. / Mig.—N.E. Orange.....	4

PRIMARY CARE: New York—Continued

Population Group Listing	
Population Group	Degree of shortage group
County—Orange	
Parts:	
Blooming Grove Twn.	
Cornwall Twn.	
Crawford Twn.	
Hamptonburgh Twn.	
Highlands Twn.	
Montgomery Twn.	
New Windsor Twn.	
Newburgh Twn.	
Newburgh City	
Woodbury Twn.	
Medicaid—Rockaway.....	4
County—Queens	
Parts:	
C.T. 916.01-916.02	
C.T. 916.99	
C.T. 918	
C.T. 922	
C.T. 928	
C.T. 934	
C.T. 938	
C.T. 942.01-942.03	
C.T. 952	
C.T. 962	
C.T. 964	
C.T. 972	
C.T. 992	
C.T. 998	
C.T. 1008	
C.T. 1010	
C.T. 1032	
Mig. / Med. Ind.—S.W. Orange.....	2
County—Orange	
Parts:	
Chester Twn.	
Goshen Twn.	
Monroe Twn.	
Warwick Twn.	
Pov Pop/Syracuse.....	4
County—Onondaga	
Parts:	
Pov Pop/City Of Syracuse	
Pov. Pop. (P.S. 84 Area).....	1
County—Erie	
Parts:	
C.T. 27.02	
C.T. 29	
C.T. 32.01-32.02	
C.T. 33.01-33.02	
C.T. 34-36	
C.T. 39.01-39.02	
C.T. 40.01-40.02	
C.T. 41	
C.T. 44.02	
Pov. Pop.—Bedford/Bushwick.....	1
County—Kings	
Parts:	
C.T. 253	
C.T. 255	
C.T. 257	
C.T. 259.01-259.02	
C.T. 261	
C.T. 275	
C.T. 277	
C.T. 279	
C.T. 281	
C.T. 283	
C.T. 285.01-285.02	
C.T. 287	
C.T. 289	
C.T. 291	
C.T. 293	
C.T. 375	
C.T. 389	
C.T. 391	

PRIMARY CARE: New York—Continued*Population Group Listing*

Population Group	Degree of shortage group
C.T. 393	
C.T. 395	
C.T. 397	
C.T. 399	
C.T. 415	
C.T. 417	
C.T. 419	
C.T. 421	
C.T. 423	
C.T. 425	
C.T. 465	
C.T. 477	
C.T. 481	
C.T. 483	
C.T. 487	
C.T. 489	
C.T. 491	
C.T. 493	
C.T. 495	
C.T. 497	
C.T. 499	
C.T. 501	
C.T. 503	
C.T. 505	
C.T. 507	
C.T. 509	
C.T. 511	
C.T. 513	
C.T. 515	
C.T. 517	
C.T. 519	
C.T. 523	
C.T. 525	
C.T. 527	
C.T. 529	
C.T. 531	
C.T. 533	
C.T. 535	
C.T. 537	
C.T. 539	
C.T. 545	
C.T. 547	
C.T. 549	
C.T. 551	
C.T. 553	
C.T. 555	
C.T. 557	
Pov. Pop.—City Of Utica	3
County—Oneida	
Pov. Pop.—Hamilton Hill/Mt. Pleasant	1
County—Schenectady	
Parts:	
C.T. 207-209	
C.T. 210.01-210.02	
C.T. 211.03	
C.T. 214-217	
Pov. Pop.—Lower West Side	1
County—Erie	
Parts:	
C.T. 68	
C.T. 71.01-71.02	
C.T. 72.01	
Pov. Pop./S. Mt. Vernon	4
County—Westchester	
Parts:	
C.T. 25-36	
C.T. 40-41	

PRIMARY CARE: New York*Facility Listing*

Facility Name	Degree of shortage group
Attica Corr. Fac.	2
County—Wyoming	
Bellevue Hosp. Center	3
County—New York	
Nyc Corr. Fac./Riker's Island	3
County—Bronx	
Corr. Fac./Rikers Island	

PRIMARY CARE: North Carolina*County Listing*

County Name	Degree of shortage group
*Anson	2
*Beaufort	
Service Area: Belhaven	1
Service Area: Richland	2
*Bertie	2
*Bladen	2
*Caldwell	
Service Area: Western Caldwell	1
*Carteret	
Service Area: Eastern Carteret	4
*Caswell	1
*Chatham	4
*Clay	3
*Cleveland	
Population Group: Med. Ind. Pop.—Cleveland Co.	1
Cumberland	
Service Area: S. E. Cumberland	2
*Currituck	2
*Duplin	2
*Edgecombe	1
Franklin	2
*Gates	3
*Greene	1
*Halifax	
Service Area: Littleton	1
*Harnett	
Service Area: Western Harnett	2
*Henderson	
Population Group: Mig. Pop.—Henderson/Polk	1
*Hoke	1
*Hyde	1
*Johnston	
Service Area: Benson	1
Population Group: Mig. Pop.—Johnston/Sampson	1
*Jones	1
*Martin	3
Mecklenburg	
Service Area: Central Charlotte	1
*Montgomery	2
*Nash	
Population Group: Mig. Pop.—Nash/Wilson	1
*Northampton	2
Onslow	3
*Pender	1
*Person	3
*Polk	
Population Group: Mig. Pop.—Henderson/Polk	1
Randolph	4
*Robeson	2
*Sampson	
Population Group: Mig. Pop.—Johnston/Sampson	1

PRIMARY CARE: North Carolina—Continued*County Listing*

County Name	Degree of shortage group
*Swain	2
*Tyrrell	1
*Warren	
Service Area: Littleton	1
Service Area: Warrenton	1
*Washington	4
*Wilson	
Population Group: Mig. Pop.—Nash/Wilson	1
Yadkin	4

PRIMARY CARE: North Carolina*Service Area Listing*

Service Area Name	Degree of shortage group
Belhaven	1
County—Beaufort	
Parts:	
Bath Twp.	
Pantego Twp.	
Benson	1
County—Johnston	
Parts:	
*Banner Twp.	
*Elevation Twp.	
*Meadow Twp.	
*Pleasant Grove Twp.	
Central Charlotte	1
County—Mecklenburg	
Parts:	
C.T. 1	
C.T. 4-8	
C.T. 36-37	
C.T. 38.02	
C.T. 39-42	
C.T. 43.01-43.02	
C.T. 44-46	
C.T. 46-47	
C.T. 47-51	
C.T. 51-52	
Eastern Carteret	4
County—Carteret	
Parts:	
*Atlantic Twp.	
*Cedar Island Twp.	
*Davis Twp.	
*Harkers Islands Twp.	
*Marshallberg Twp.	
*Merriman Twp.	
*Portsmouth Twp.	
*Sea Level Twp.	
*Smyrna Twp.	
*Stacy Twp.	
*Straights Twp.	
Littleton	1
County—Halifax	
Parts:	
*Brinkleyville Twp.	
*Butterworth Twp.	
*Littleton Twp.	
County—Warren	
Parts:	
*Fishing Creek Twp.	
*Judkins Twp.	
Richland	2
County—Beaufort	
Parts:	
*Richland Twp.	

**PRIMARY CARE: North Carolina—
Continued**
Service Area Listing

Service Area Name	Degree of shortage group
S. E. Cumberland.....	2
County—Cumberland	
Parts:	
Cedar Creek Twp.	
Eastover Twp.	
Grays Creek Twp.	
Warrenton.....	1
County—Warren	
Parts:	
*Fork Twp.	
*Hawtree Twp.	
*Nutbush Twp.	
*River Twp.	
*Roanoke Twp.	
*Sandy Creek Twp.	
*Shocco Twp.	
*Sixpound Twp.	
*Smith Creek Twp.	
*Warrenton Twp.	
Western Caldwell.....	1
County—Caldwell	
Parts:	
*Globe Twp.	
*Johns River Twp.	
*Mulberry Twp.	
*Patterson Twp.	
*Wilson Creek Twp.	
Western Harnett.....	2
County—Harnett	
Parts:	
*Anderson Creek Twp.	
*Barbecue Twp.	
*Johnsonville Twp.	
*Lillington Twp.	
*Stewarts Creek Twp.	
*Upper Little River Twp.	

PRIMARY CARE: North Carolina
Population Group Listing

Population Group	Degree of shortage group
Med. Ind. Pop.—Cleveland Co.....	1
County—Cleveland	
Parts:	
Med. Ind. Pop.	
Mig. Pop.—Henderson/Polk.....	1
County—Henderson	
Parts:	
Mig. Pop.	
County—Polk	
Parts:	
Mig. Pop.	
Mig. Pop.—Johnston/Sampson.....	1
County—Johnston	
Parts:	
Mig. Pop.	
County—Sampson	
Parts:	
Mig. Pop.	
Mig. Pop.—Nash/Wilson.....	1
County—Nash	
Parts:	
Mig. Pop.	
County—Wilson	
Parts:	
Mig. Pop.	

PRIMARY CARE: North Dakota
County Listing

County Name	Degree of shortage group
*Benson.....	1
*Billings	
Service Area: Belfield/Medora.....	1
*Bowman	
Service Area: Baker (Mt/Nd).....	4
*Burke.....	1
*Cavalier.....	3
*Dickey	
Service Area: Ellendale/Edgely (Nd/Sd).....	2
*Divide.....	1
*Dunn.....	1
*Eddy.....	4
*Emmons.....	1
*Foster	
Service Area: Carrington.....	4
*Golden Valley.....	2
Grand Forks	
Service Area: Northwood.....	2
*Grant.....	2
*Griggs.....	4
*Hettinger.....	1
*Kidder	
Service Area: Carrington.....	4
Service Area: Harvey.....	3
Service Area: Medina.....	1
*La Moure	
Service Area: Ellendale/Edgely (Nd/Sd).....	2
Service Area: La Moure.....	1
*Logan.....	1
*McIntosh.....	3
*McKenzie.....	3
*McLean.....	2
*Mercer	
Service Area: Mercer/Oliver.....	2
Morton	
Service Area: West Morton.....	2
*Mountrail.....	1
*Nelson	
Service Area: Northwood.....	2
*Oliver	
Service Area: Mercer/Oliver.....	2
*Pierce	
Service Area: Harvey.....	3
*Renville.....	2
*Rolette.....	2
*Sargent.....	1
*Sheridan.....	1
*Sioux.....	1
*Slope	
Service Area: Amidon.....	1
Service Area: Baker (Mt/Nd).....	4
*Stark	
Service Area: Belfield/Medora.....	1
*Steele	
Service Area: Northwood.....	2
*Stutsman	
Service Area: Carrington.....	4
Service Area: Medina.....	1
*Walsh.....	4
*Wells	
Service Area: Carrington.....	4
Service Area: Harvey.....	3

PRIMARY CARE: North Dakota
Service Area Listing

Service Area Name	Degree of shortage group
Amidon.....	1
County—Slope	
Parts:	
*Amidon City	
*Carroll Twp.	
*Cash Twp.	
*Cedar Creek Twp.	
*Chalky Butte—Unorg.	
*Conner Twp.	
*Crawford Twp.	
*Deep Creek—Unorg.	
*Dovre Twp.	
*E-Six—Unorg.	
*Harper Twp.	
*Hume Twp.	
*Mineral Springs Twn.	
*Moord Twp.	
*Mound Twp.	
*Peaceful Valley Twn.	
*Rainy Butte Twp.	
*Richland Center Twn.	
*Sheets Twp.	
*Slope Center Twp.	
*Sund Creek Twp.	
*Sunshine Twp.	
*White Lake Twp.	
*Woodberry Twp.	
Baker (Mt/Nd).....	4
County—Bowman	
Parts:	
*Sunny Slope Twp.	
*W. Bowman—Unorg.	
County—Slope	
Parts:	
*Bucklin Twp.	
*Hughes Twp.	
*Marmarth City	
*N. W. Slope—Unorg.	
*W. Slope—Unorg.	
Belfield/Medora.....	1
County—Billings	
County—Stark	
Parts:	
*Belfield City	
*E.D. 98 (W. 1/4)	
Carrington.....	4
County—Kidder	
Parts:	
*Frettim Twp.	
*Lake Williams Twp.	
*Petersville Twp.	
*Pettibone Twp.	
*Pettibone City	
*Rexine Twp.	
*Wallace Twp.	
County—Stutsman	
Parts:	
*Conklin Twp.	
*Corinne Twp.	
*Edmunds Twp.	
*Gerber Twp.	
*Glacier Twp.	
*Kensal City	
*Kensal Twp.	
*Lowery Twp.	
*Marston Moor Twp.	
*Nogosek Twp.	
*Pingree City	
*Pingree Twp.	
*Pipestream Valley Twp.	
*Strong Twp.	
*Wadsworth Twp.	
*Walters Twp.	
*Woodworth City	

PRIMARY CARE: North Dakota—
Continued

Service Area Listing

Service Area Name	Degree of shortage group
County—Foster	
County—Wells	
Parts:	
*Berlin Twp.	
*Blondeau Twp.	
*Cathay Twp.	
*Cathay City	
*Haaland Twp.	
*Hawksnest Twp.	
*Johnson Twp.	
*Progress Twp.	
*South Cottonwood Twp.	
*Speedwell Twp.	
*Sykeston Twp.	
*Sykeston City	
*West Ontario Twp.	
*Woodward Twp.	
Ellendale/Edgely (Nd/Sd).....	2
County—Dickey	
Parts:	
*Ada Twp.	
*Albertha Twp.	
*Albion Twp.	
*Elden Twp.	
*Ellendale City	
*Ellendale Twp.	
*Elm Twp.	
*Forbes City	
*Fullerton City	
*German Twp.	
*Grand Valley Twp.	
*Hamburg Twp.	
*Kent Twp.	
*Kentner Twp.	
*Keystone Twp.	
*Lorraine Twp.	
*Maple Twp.	
*Merricourt City	
*Monango City	
*Northwest Twp.	
*Porter Twp.	
*Potsdam Twp.	
*Spring Valley Twp.	
*Valley Twp.	
*Van Meter Twp.	
*Whitestone Twp.	
*Wright Twp.	
*Yorktown Twp.	
*Young Twp.	
County—La Moure	
Parts:	
*Edgely City	
*Golden Glen Twp.	
*Nora Twp.	
*Pomona View Twp.	
*Ray Twp.	
*Wano Twp.	
*Willowbank Twp.	
Harvey.....	3
County—Kidder	
Parts:	
*Atwood Twp.	
*Clear Lake Twp.	
*Kickapoo Twp.	
*Merkel Twp.	
*Northwest Twp.	
*Robinson City	
*Robinson Twp.	
*Stewart Twp.	
*Tuttle City	
*Tuttle Twp.	
County—Pierce	
Parts:	
*Alexander Twp.	

PRIMARY CARE: North Dakota—
Continued

Service Area Listing

Service Area Name	Degree of shortage group
*Antelope Lake Twp.	
*Elling Twp.	
*Hagel Twp.	
*S. Pierce—Unorg.	
*Truman Twp.	
*White Twp.	
County—Wells	
Parts:	
*Bremen Twp.	
*Bull Moose Twp.	
*Chaseley Twp.	
*Crystal Lake Twp.	
*Delger Twp.	
*Fairville Twp.	
*Fessenden City	
*Forward Twp.	
*Fram Twp.	
*Germantown Twp.	
*Hamburg City	
*Hamburg Twp.	
*Harvey City	
*Heimdal Twp.	
*Hillsdale Twp.	
*Lynn Twp.	
*Manfred Twp.	
*Norway Lake Twp.	
*Oshkosh Twp.	
*Pony Gulch Twp.	
*Rusland Twp.	
*Silver Lake Twp.	
*St. Anna Twp.	
*Valhalla Twp.	
*Wells Twp.	
*West Norway Twp.	
*Western Twp.	
La Moure.....	1
County—La Moure	
Parts:	
Adrian Twp.	
Berlin City	
Black Loam Twp.	
Blue Bird Twp.	
Budger Twp.	
Dean Twp.	
Dickey City	
Gladstone Twp.	
Glen Twp.	
Glenmore Twp.	
Grand Rapids Twp.	
Grandview Twp.	
Greenville Twp.	
Henrietta Twp.	
Jud City	
Kennison Twp.	
La Moure City	
Litchville Twp.	
Marion City	
Mikkelsen Twp.	
Ovid Twp.	
Pearl Lake Twp.	
Prairie Twp.	
Raney Twp.	
Roscoe Twp.	
Russell Twp.	
Ryan Twp.	
Saratoga Twp.	
Sheridan Twp.	
Verona Twp.	
Lemmon (Sd/Nd).....	0
Parts:	
E. Adams (Unorg.) S. 1/2	
Gilstrap Twp.	
North Lemmon Twp.	
Orange Twp.	

PRIMARY CARE: North Dakota—
Continued

Service Area Listing

Service Area Name	Degree of shortage group
South Fork Twp.	
Medina.....	1
County—Kidder	
Parts:	
Allen Twp.	
Buckeye Twp.	
Bunker Twp.	
Crystal Spring Twp.	
Dawson City	
Graf Twp.	
Haynes Twp.	
Manning Twp.	
Peace Twp.	
Quincy Twp.	
Sibley Twp.	
South Kidder—Unorg.	
Steele City	
Tanner Twp.	
Tappen City	
Tappen Twp.	
Valley Twp.	
Vernon Twp.	
Weiser Twp.	
Westford Twp.	
Williams Twp.	
Woodlawn Twp.	
County—Stutsman	
Parts:	
Bloomfield Twp.	
Chase Lake—Unorg.	
Chicago Twp.	
Cleveland City	
Flint Twp.	
Germania Twp.	
Griffin Twp.	
Iosco Twp.	
Medina City	
Newbury Twp.	
Peterson Twp.	
Sinclair Twp.	
St. Paul Twp.	
Stirten Twp.	
Streeter City	
Streeter Twp.	
Valley Spring Twp.	
Weld Twp.	
Mercer/Oliver.....	2
County—Mercer	
County—Oliver	
Northwood.....	2
County—Grand Forks	
Parts:	
Arvilla Twp.	
Avon Twp.	
Elm Grove Twp.	
Grace Twp.	
Larimore Twp.	
Larimore City	
Lind Twp.	
Logan Center Twp.	
Loretta Twp.	
Moraine Twp.	
Niagara Twp.	
Niagara City	
Northwood Twp.	
Northwood City	
Pleasant View Twp.	
Washington Twp.	
County—Nelson	
Parts:	
*Aneta City	
*Ora Twp.	
*Rugh Twp.	

PRIMARY CARE: North Dakota—Continued
Service Area Listing

Service Area Name	Degree of shortage group
County—Steele Parts: *Beaver Creek Twp. *Newburgh Twp. *Sharon Twp. *Sharon City *Westfield Twp.	
West Morton.....	2
County—Morton Parts: Almont City Curlew Twp Engelter Twp Glen Ullin City Hebron City New Salem City West Morton—Unorg.	

PRIMARY CARE: Ohio
County Listing

County Name	Degree of shortage group
*Adams.....	3
Allen Service Area: South Side Lima.....	1
*Ashtabula Service Area: Orwell.....	2
*Brown.....	3
Butler Service Area: Eastern Hamilton.....	1
Population Group: Pov. Pop.—W. Mid-	
dletown.....	1
Carroll.....	4
Clark Population Group: Pov. Pop.—Spring-	
field.....	2
Clermont Service Area: Blanchester.....	2
Service Area: Southern Clermont.....	2
*Clinton Service Area: Blanchester.....	2
*Columbiana Service Area: East Liverpool (Oh/Pa/	
Wv).....	3
Cuyahoga Service Area: Glenville.....	1
Service Area: Hough/Norwood.....	2
Service Area: Mt. Pleas./Union-Miles/	
Corlett.....	1
Service Area: Near West/West Side.....	1
Population Group: Medicaid—Clark-	
Fulton/Denison/Tremont.....	1
Population Group: Medicaid—Central/	
Fairfax/Kinsman.....	1
Population Group: Pov. Pop.—W. Col-	
linwood.....	1
Facility: Rainbow Babies/Children	
Hosp.....	1
*Darke.....	3
Franklin Service Area: Lower Linden (N.E. Co-	
lumbus).....	4
*Guernsey Service Area: Freeport.....	1
Hamilton Service Area: East End (Cincinnati).....	2
Service Area: East&Lower Price Hill/S.	
Fairmont.....	3

PRIMARY CARE: Ohio—Continued
County Listing

County Name	Degree of shortage group
Service Area: Lincoln Heights (Cincin-	
nati).....	1
Service Area: Milivale.....	1
Service Area: Winton Hills (Cincinnati).....	4
*Hardin.....	4
*Harrison Service Area: Freeport.....	1
*Henry.....	4
*Highland Population Group: Med. Ind.—Highland	
Co.....	3
*Hocking.....	2
*Holmes.....	3
*Jackson Population Group: Medicaid—Jackson	
Co.....	2
Jefferson Service Area: Bergholz/Amsterdam.....	2
Service Area: East Liverpool (Oh/Pa/	
Wv).....	3
Lawrence Population Group: Pov. Pop.—Law-	
rence Co.....	1
Lorain Population Group: Medicaid Pop.—	
Lorain.....	4
Lucas Service Area: Center City/Dorr	
(Toledo).....	3
Service Area: Near South Side	
(Toledo).....	1
Mahoning Service Area: Eastside Youngstown.....	2
*Meigs.....	2
*Monroe Service Area: New Matamoras.....	1
Service Area: Woodsfield.....	2
Montgomery Service Area: West Dayton.....	2
*Morgan.....	3
*Morrow.....	2
*Perry.....	3
*Pike.....	3
*Preble.....	4
*Ross Population Group: Medicaid—Ross.....	3
*Sandusky Population Group: Medicaid/MSFW—	
Sandusky Co.....	3
Trumbull Service Area: Orwell.....	2
Service Area: The Flats (Warren).....	1
*Tuscarawas Service Area: Freeport.....	1
*Vinton.....	1
Warren Service Area: Blanchester.....	2
Washington Service Area: New Matamoras.....	1

PRIMARY CARE: Ohio
Service Area Listing

Service Area Name	Degree of shortage group
Bergholz/Amsterdam.....	2
County—Jefferson Parts: Ross Twp. Springfield	

PRIMARY CARE: Ohio—Continued
Service Area Listing

Service Area Name	Degree of shortage group
Blanchester.....	2
County—Clermont Parts: Wayne Twp.	
County—Clinton Parts: *Marion Twp.	
County—Warren Parts: Harland Twp.	
Center City/Dorr (Toledo).....	3
County—Lucas Parts: C.T. 27-28 C.T. 31-37 C.T. 39	
East End (Cincinnati).....	2
County—Hamilton Parts: C.T. 43-44 C.T. 47.02	
East Liverpool (Oh/Pa/Wv).....	3
County—Columbiana Parts: *Center Twp. *East Liverpool City *Elk Run Twp. *Franklin Twp. *Hanover Twp. (S. 1/2) *Liverpool Twp. *Madison Twp. *Middleton Twp. *St. Clair Twp. *Washington Twp. *Wayne Twp. *Wellsville City *Yellow Creek Twp.	
County—Jefferson Parts: Brush Creek Twp. Saline Twp.	
East&Lower Price Hill/S. Fairmont.....	3
County—Hamilton Parts: C.T. 87 (Fairmont—Sout C.T. 89 (Fairmont—Sout C.T. 91-96 (Riverside—Sel C.T. 103 (Riverside—Sel	
Eastern Hamilton.....	1
County—Butler Parts: C.T. 3-4 C.T. 6 C.T. 7.01-7.02	
Eastside Youngstown.....	2
County—Mahoning Parts: C.T. 8001-8008	
Freeport.....	1
County—Guernsey Parts: Londonderry Twp Madison Twp Washington Twp	
County—Harrison Parts: Freeport Twp Moorefield Twp Nottingham Twp Washington Twp	
County—Tuscarawas Parts: Perry Twp	
Glenville.....	1

PRIMARY CARE: Ohio—Continued

Service Area Listing

Service Area Name	Degree of shortage group
County—Cuyahoga Parts: C.T. 1114 C.T. 1161-1168 C.T. 1181-1185	2
Hough/Norwood	
County—Cuyahoga Parts: C.T. 1112-1113 C.T. 1115-1119 C.T. 1121-1128 C.T. 1186 C.T. 1189	1
Lincoln Heights (Cincinnati)	
County—Hamilton Parts: C.T. 227 (Lincoln Heights)	4
Lower Linden (N.E. Columbus)	
County—Franklin Parts: C.T. 7.10 C.T. 7.20 C.T. 7.30 C.T. 8.10 C.T. 9.20 C.T. 14-15 C.T. 75.11 C.T. 75.20	1
Millvale	
County—Hamilton Parts: C.T. 23 C.T. 77 C.T. 85.02 C.T. 86.01	1
Mt. Pleasant/Union-Miles/Corlett	
County—Cuyahoga Parts: C.T. 1155-1156 C.T. 1198-1199 C.T. 1204-1209 C.T. 1213	1
Near South Side (Toledo)	
County—Lucas Parts: C.T. 38 C.T. 40-42 C.T. 54	1
Near West/West Side	
County—Cuyahoga Parts: C.T. 1012 C.T. 1014-1019 C.T. 1021-1026 C.T. 1031-1039	1
New Matamoras	
County—Monroe Parts: Benton Twp. Jackson Twp.	2
County—Washington Parts: Grandview Twp. Independence Twp. Liberty Twp. Ludlow Twp.	
Orwell	2
County—Ashtabula Parts: *Colebrook Twp. *Hartsgrove Twp. *New Lyme Twp. *Orwell Twp. *Roaming Shores Vil. *Rome Twp. *Windsor Twp.	

PRIMARY CARE: Ohio—Continued

Service Area Listing

Service Area Name	Degree of shortage group
County—Trumbull Parts: Bloomfield Twp. Greene Twp. Gustavus Twp.	1
South Side Lima	
County—Allen Parts: C.T. 117 C.T. 135-138	2
Southern Clermont	
County—Clermont Parts: Franklin Twp. (Pt. Of C.T. 420) Monroe Twp. (C.T. 417) Ohio Twp. (C.T. 416) Tate Twp. (C.T.'S 418 & 419) Washington Twp. (Pt. Of C.T. 420)	1
The Flats (Warren)	
County—Trumbull Parts: C.T. 9205-9206	2
West Dayton	
County—Montgomery Parts: C.T. 4-6 C.T. 13 C.T. 14.02 C.T. 15-17 C.T. 19-23 C.T. 25-26 C.T. 28-33 C.T. 702.01-702.02 C.T. 703	4
Winton Hills (Cincinnati)	
County—Hamilton Parts: C.T. 80 (Winton Hills)	2
Woodsfield	
County—Monroe Parts: *Adams Twp. *Bethel Twp. *Center Twp. *Franklin Twp. *Green Twp. *Lee Twp. *Malaga Twp. *Ohio Twp. *Perry Twp. *Salem Twp. *Seneca Twp. *Summit Twp. *Sunsburg Twp. *Switzerland Twp. *Washington Twp. *Wayne Twp.	

PRIMARY CARE: Ohio

Population Group Listing

Population Group	Degree of shortage group
Med. Ind.—Highland Co.	3
County—Highland Parts: Med. Ind. Pop.	
Medicaid—Central/Fairfax/Kinsman	1

PRIMARY CARE: Ohio—Continued

Population Group Listing

Population Group	Degree of shortage group
County—Cuyahoga Parts: C.T. 1079 (Winton Hills) C.T. 1087-1089 C.T. 1091-1093 C.T. 1096-1099 C.T. 1101-1103 C.T. 1129 C.T. 1131-1139 C.T. 1141-1145 C.T. 1147-1148	1
Medicaid—Clark-Fulton/Denison/Tremont	
County—Cuyahoga Parts: C.T. 1027-1029 C.T. 1041-1042 C.T. 1044-1049 C.T. 1051-1056	2
Medicaid—Jackson Co.	
County—Jackson Parts: Medicaid Pop.	3
Medicaid—Ross	
County—Ross Parts: Medicaid	4
Medicaid Pop.—Lorain	
County—Lorain Parts: Lorain City	3
Medicaid/MSFW—Sandusky Co.	
County—Sandusky Parts: Sandusky	1
Pov. Pop.—Lawrence Co.	
County—Lawrence Parts: Pov. Pop.	2
Pov. Pop.—Springfield	
County—Clark Parts: C.T. 1-3 C.T. 8 C.T. 9.01-9.02 C.T. 10 C.T. 11.01-11.02 C.T. 12	1
Pov. Pop.—W. Collinwood	
County—Cuyahoga Parts: C.T. 1169 (Pov. Pop.) C.T. 1171-1175 (Pov. Pop.) C.T. 1179 (Pov. Pop.) C.T. 1261 (Pov. Pop.)	1
Pov. Pop.—W. Middletown	
County—Butler Parts: C.T. 14 (Part) C.T. 128-132	

PRIMARY CARE: Ohio*Facility Listing*

Facility Name	Degree of shortage group
Rainbow Babies/Children Hosp.	1
County—Cuyahoga	

PRIMARY CARE: Oklahoma*County Listing*

County Name	Degree of shortage group
*Atoka	3
Facility: Stringtown Corr. C.	3
*Beaver	4
Cleveland	
Facility: Joseph Harp Corr. C.	1
Facility: Lexington Corr. C.	2
*Coal	3
*Greer	
Facility: Ok. State Pen.—Granite	2
*Haskell	3
*Latimer	4
*Le Flore	
Service Area: South Le Flore	1
Logan	3
*Mayes	
Service Area: Chelsea/New Alluwe	1
McClain	4
*Nowata	
Service Area: Chelsea/New Alluwe	1
Service Area: Nowata	3
Oklahoma	
Service Area: S.E. Oklahoma City	1
Facility: Mabel Bassett Corr. C.	3
Osage	
Facility: Conners Corr. C.	2
Pottawatomie	
Service Area: Konawa	2
*Pushmataha	
Service Area: Clayton	1
*Roger Mills	2
Rogers	
Service Area: Chelsea/New Alluwe	1
*Seminole	
Service Area: Konawa	2
*Texas	
Service Area: Texhoma	1
*Tillman	3
Tulsa	
Service Area: North Tulsa	1
Population Group: Am. In. Pop.—Tulsa ..	1
*Washita	
Service Area: Southwest Washita	1

PRIMARY CARE: Oklahoma*Service Area Listing*

Service Area Name	Degree of shortage group
Chelsea/New Alluwe	1
County—Mayes	
Parts:	
*Adair E.D. 12	
County—Nowata	
Parts:	
*New Alluwe E.D. 14	
County—Rogers	
Parts:	
E.D. 1-4	
Clayton	1

PRIMARY CARE: Oklahoma—Continued*Service Area Listing*

Service Area Name	Degree of shortage group
County—Pushmataha	
Parts:	
*N. Pushmataha CCD	
Konawa	2
County—Pottawatomie	
Parts:	
Maud (C.T. 5012)	
Wanette-Asher (C.T. 5013)	
County—Seminole	
Parts:	
Konawa CCD	
Seminole South CCD	
North Tulsa	1
County—Tulsa	
Parts:	
C.T. 2-10	
C.T. 12-14	
C.T. 57	
C.T. 62	
C.T. 79	
C.T. 80.01-80.02	
C.T. 91.01	
Nowata	3
County—Nowata	
Parts:	
*Lenapah-Delaware CCD	
*Nowata CCD	
*South Coffeyville-Wann CCD	
S.E. Oklahoma City	1
County—Oklahoma	
Parts:	
C.T. 1039	
C.T. 1048	
C.T. 1053-1054	
C.T. 1073.04	
South Le Flore	1
County—Le Flore	
Parts:	
*South Le Flore CCD	
*Talihina CCD	
Southwest Washita	1
County—Washita	
Parts:	
*Southwest Washita CCD	
Texhoma	1
County—Texas	
Parts:	
*West Texas CCD	

PRIMARY CARE: Oklahoma*Population Group Listing*

Population Group	Degree of shortage group
Am. In. Pop.—Tulsa	1
County—Tulsa	
Parts:	
Am. In. Pop	

PRIMARY CARE: Oklahoma*Facility Listing*

Facility Name	Degree of shortage group
Conners Corr. C.	2
County—Osage	
Joseph Harp Corr. C.	1
County—Cleveland	
Joseph Harp. Corr. C.	
Lexington Corr. C.	2
County—Cleveland	
Lexington Assessment/Recep. C.	
Mabel Bassett Corr. C.	3
County—Oklahoma	
Ok. State Pen.—Granite	2
County—Greer	
Oklahoma State Pen.—Granite	
Stringtown Corr. C.	3
County—Atoka 3	

PRIMARY CARE: Oregon*County Listing*

County Name	Degree of shortage group
*Baker	
Service Area: Halfway	1
*Benton	
Service Area: Alsea	1
Service Area: Junction City/Harrisburg/Monroe	3
Clackamas	
Service Area: Estacada	3
Service Area: Mt. Hood	2
Population Group: MSFW—Clackamas	1
*Columbia	
Service Area: Vernonia	1
*Cooks	
Service Area: Powers	1
*Douglas	
Population Group: Cow Creek Band Umpqua Indians	1
*Gilliam	
Service Area: Arlington	1
Service Area: Condon	1
*Grant	
Service Area: Long Creek	1
*Harney	
Service Area: Burns	2
Service Area: South Harney	1
Population Group: Burns Paiute Res.	1
*Hood River	
Population Group: MSFW-Hood River (Or/Wa)	1
Jackson	
Service Area: Applegate-Williams	1
Service Area: MSFW—Jackson Co.	1
Service Area: Shady Cove	2
*Jefferson	
Population Group: Am Indian Pop-Warm Springs Res	1
*Josephine	
Service Area: Applegate-Williams	1
Service Area: Cave Junction	3
*Klamath	
Service Area: Bly	1
Service Area: Chiloquin	1
*Lake	
Service Area: Silver Lake	1
Lane	
Service Area: Junction City/Harrisburg/Monroe	3
Service Area: Lowell	1
Service Area: McKenzie	1

PRIMARY CARE: Oregon—Continued

County Listing

County Name	Degree of shortage group
Service Area: Oakridge	3
Service Area: Triangle Lake/Swishome	3
Service Area: Veneta	4
*Lincoln	
Population Group: Confed. Tribes / Siletz Res.	1
*Linn	
Service Area: Junction City/Harrisburg/Monroe	3
Service Area: Mill City/Gates	1
*Malheur	
Service Area: Jordan Valley	1
Service Area: Nyssa	1
Service Area: Vale	2
Marion	
Service Area: Detroit	1
Service Area: Mill City/Gates	1
Population Group: MSFW—Polk	1
Facility: St. Pen./Womens Corr. I.	2
Facility: State Corr. I.	2
*Morrow	
Service Area: Boardman	1
Multnomah	
Service Area: Burnside—Portland	3
Polk	
Service Area: Willamina	1
Population Group: Confed. Tribes Of Grande Ronde Res.	1
Population Group: MSFW—Polk	1
*Sherman	
Service Area: Moro/Grass Valley	1
*Tillamook	
Service Area: Pacific City/Cloverdale	3
*Umatilla	
Population Group: Am Indian Pop—Umatilla	1
Population Group: MSFW—Umatilla	2
*Union	
Service Area: Cove/Union	1
*Wasco	
Service Area: Maupin	2
Population Group: Am Indian Pop—Warm Springs Res.	1
Population Group: MSFW—Hood River (Or/Wa)	1
Washington	
Service Area: Vernonia	1
Population Group: MSFW—Washington	1
*Wheeler	
Service Area: Fossil	1
Service Area: Mitchell	1
Yamhill	
Service Area: Willamina	1
Population Group: Confed. Tribes Of Grande Ronde Res.	1
Population Group: MSFW—Yamhill	1

PRIMARY CARE: Oregon

Service Area Listing

Service Area Name	Degree of shortage group
Alsea	1
County—Benton	
Parts:	
*S.W. Benton Div. (W 1/3)	
Applegate-Williams	1

PRIMARY CARE: Oregon—Continued

Service Area Listing

Service Area Name	Degree of shortage group
County—Jackson	
Parts:	
Southwest Jackson Div. (S.W. Pt.)	
County—Josephine	
Parts:	
*Williams Div.	1
Arlington	1
County—Gilliam	
Parts:	
*Arlington Div.	1
Bly	1
County—Klamath	
Parts:	
*Langell CCD	1
Boardman	1
County—Morrow	
Parts:	
*Boardman Div.	2
Burns	2
County—Harney	
Parts:	
Burns Div.	
Drewsey Div.	
Burnside—Portland	3
County—Multnomah	
Parts:	
C.T. 21	
C.T. 51	
Cave Junction	3
County—Josephine	
Parts:	
*Cave Junction Div.	
*E.D. 21 (Wilderville Div.)	
Chiloquin	1
County—Klamath	
Parts:	
*Chiloquin Div.	
*Crescent Lake Div. (S. Pt.)	
*Keno Div. (N. Pt.)	
Condon	1
County—Gilliam	
Parts:	
*Condon Div.	1
Cove/Union	1
County—Union	
Parts:	
*Cove Div.	
*Union Div.	
Detroit	1
County—Marion	
Parts:	
Mill City Div. (E 1/2)	3
Estacada	3
County—Clackamas	
Parts:	
Estacada Div.	
Fossil	1
County—Wheeler	
Parts:	
*Fossil Div.	1
Halfway	1
County—Baker	
Parts:	
*Eagle Valley CCD	
*Halfway CCD	
Jordan Valley	1
County—Malheur	
Parts:	
*Jordan CCD	
Junction City/Harrisburg/Monroe	3
County—Benton	
Parts:	
*Se Benton Div. (S 1/2)	

PRIMARY CARE: Oregon—Continued

Service Area Listing

Service Area Name	Degree of shortage group
County—Lane	
Parts:	
Junction City Div.	
Mid. Sulzslaw/Tri. Lake (Ed 664)	
County—Linn	
Parts:	
*Harrisburg Div. (S. 1/2)	1
Long Creek	1
County—Grant	
Parts:	
*Long Creek Div.	1
Lowell	1
County—Lane	
Parts:	
Lowell Div.	2
Maupin	2
County—Wasco	
Parts:	
*Dufur Div. (S. 1/2)	1
McKenzie	1
County—Lane	
Parts:	
C.T. 1 (mckenzie)	
Mill City/Gates	1
County—Linn	
Parts:	
*Mill City Div. (W. Cent. Pt.)	
County—Marion	
Parts:	
Mill City Div. (W. Cent. Pt.)	
Mitchell	1
County—Wheeler	
Parts:	
*Mitchell Div.	
Moro/Grass Valley	1
County—Sherman	
Parts:	
*Moro Div.	2
Mt. Hood	2
County—Clackamas	
Parts:	
Mt. Hood Div.	
MSFW—Jackson Co.	1
County—Jackson	
Parts:	
MSFW	1
Nyssa	1
County—Malheur	
Parts:	
*Adrian Div.	
*Nyssa Div.	
*Owyhee Div.	
Oakridge	3
County—Lane	
Parts:	
Oakridge Div.	
Pacific City/Cloverdale	3
County—Tillamook	
Parts:	
*Beaver Div. (S 1/2)	
*Neskowin Div.	
Powers	1
County—Coos	
Parts:	
*Powers Div.	
Shady Cove	2
County—Jackson	
Parts:	
Butte Falls-Prospect Div. (N 1/2)	
Shady Cove Div.	
Silver Lake	1
County—Lake	
Parts:	
*Silver Lake-Ft Rock CCD	
South Harney	1

PRIMARY CARE: Oregon—Continued*Service Area Listing*

Service Area Name	Degree of shortage group
County—Harney Parts: *Diamond Div. Triangle Lake/Swisshome	3
County—Lane Parts: Mid. Siuslaw/Tri Lake Div.	2
Vale County—Malheur Parts: *Brogan Div. *Juntura Div. *Vale Div. *West Vale Div.	4
Veneta County—Lane Parts: Veneta City C.T. 8 (w. 1/2) C.T. 9.02 (w. 1/2)	1
Vernonia County—Columbia Parts: *Vernonia Div. *E.D. 15 (Clatsk)	1
County—Washington Parts: E.D. 855 (Coast)	1
Willamina County—Polk Parts: Willamina Div. County—Yamhill Parts: Sheridan Div. (W 2/3)	1

PRIMARY CARE: Oregon*Population Group Listing*

Population Group	Degree of shortage group
Am Indian Pop—Umatilla County—Umatilla Parts: Reservation Div.	1
Am Indian Pop—Warm Springs Res. County—Jefferson Parts: Warm Spring Div.	1
County—Wasco Parts: Warm Springs Div.	1
Burns Paiute Res. County—Harney Parts: Burns Paiute Indian Colony	1
Confed. Tribes / Siletz Res. County—Lincoln Parts: Confed. Tribes/Siletz Res.	1
Confed. Tribes Of Grande Ronde Res. County—Polk Parts: Confed. Tribes/Grande Ronde Res.	1
County—Yamhill Parts: Grande Ronde Res.	1
Cow Creek Band Umpqua Indians	1

PRIMARY CARE: Oregon—Continued*Population Group Listing*

Population Group	Degree of shortage group
County—Douglas Parts: Cow Creek-Umpqua Indians	1
MSFW—Clackamas County—Clackamas Parts: MSFW	0
MSFW—N. Treasure Valley (Id/Ut)	1
Parts: MSFW	1
MSFW—Polk County—Marion Parts: MSFW	2
County—Polk Parts: MSFW—Umatilla County—Umatilla Parts: MSFW	1
MSFW—Washington County—Washington Parts: MSFW	1
MSFW—Yamhill County—Yamhill Parts: MSFW	1
MSFW—Hood River (Or/Wa) County—Hood River Parts: MSFW	1
County—Wasco Parts: Dalles Div. (MSFW) Dufur Div. (MSFW)	

PRIMARY CARE: Oregon*Facility Listing*

Facility Name	Degree of shortage group
St. Pen./Womens Corr. I. County—Marion St. Pen./Womens Corr. C.	2
State Corr. I. County—Marion	2

PRIMARY CARE: Pennsylvania*County Listing*

County Name	Degree of shortage group
Adams Service Area: North Adams	3
Allegheny Service Area: Arlington Heights/St. Clair	1
Service Area: Homewood-Brushton	2
Service Area: McKees Rocks-Stowe	3
Population Group: Medicaid—E. Liberty	1
*Armstrong Service Area: Dayton Rural Valley	4
Service Area: Kiskadee Valley	2

PRIMARY CARE: Pennsylvania—Continued*County Listing*

County Name	Degree of shortage group
Service Area: Northeast Butler	3
Service Area: Punxsutawney	3
Beaver Service Area: East Liverpool (Oh/Pa/Wv)	3
*Bedford Service Area: Broad Top (Area 22)	3
Service Area: Hyndman	1
*Butler Service Area: Northeast Butler	3
Cambria Service Area: Ebensburg	3
*Cameron Service Area: Austin-Emporium	2
Centre Service Area: Snow Shoe	1
*Clearfield Service Area: Mahaffey	1
Service Area: S. Central Clearfield	3
Service Area: Snow Shoe	1
*Clinton Service Area: Austin-Emporium	2
Columbia Service Area: Shamokin	3
*Crawford Service Area: Conneautville	2
Dauphin Service Area: Millersburg	2
Delaware Service Area: City Of Chester	2
Erie Service Area: Southern Erie	4
Population Group: Medicaid—Erie City	3
Fayette Service Area: Connellsville	4
Service Area: Greensboro	2
Service Area: Markleysburg	2
*Franklin Service Area: Valley's Community	4
*Fulton Service Area: Hancock (Md/Pa/Wv)	2
*Greene Service Area: Clay/Battelle	2
Service Area: Greensboro	2
*Huntingdon Service Area: Big Valley	4
Service Area: Broad Top (Area 22)	3
Service Area: Cromwell (Pinn. Area 25)	1
*Indiana Service Area: Mahaffey	1
Service Area: Punxsutawney	3
*Jefferson Service Area: Punxsutawney	3
*Juniata Service Area: Mt. Pleasant Mills-Middleburg	2
Lancaster Population Group: Pov. Pop.—Welsh Mtn.	2
Population Group: Span. Sp.—S.E. Lancaster	1
Luzerne Service Area: Exeter	3
Service Area: Monroe/Noxen	3
*McKean Service Area: Central McKean	4
Service Area: Shinglehouse	2
Mercer Population Group: Medicaid—Sharon/Farrell	4
*Mifflin Service Area: Big Valley	4

**PRIMARY CARE: Pennsylvania—
Continued***County Listing*

County Name	Degree of shortage group
*Northumberland	
Service Area: Herndon.....	2
Service Area: Millersburg.....	2
Service Area: Shamokin.....	3
Philadelphia	
Service Area: Lower N. Philadelphia.....	3
Service Area: South Philadelphia.....	4
Service Area: Upper N. Philadelphia.....	4
Service Area: West Philadelphia.....	4
*Potter	
Service Area: Austin-Emporium.....	2
Service Area: Shinglehouse.....	2
Service Area: Westfield.....	1
*Schuylkill	
Service Area: Herndon.....	2
*Snyder	
Service Area: Mt. Pleasant Mills-Middleburg.....	2
Somerset	
Service Area: Confluence (Area 7).....	2
Service Area: Hyndman.....	1
*Sullivan	
Service Area: La Porte.....	4
*Tioga	
Service Area: Blossburg.....	2
Service Area: Elkland (Ny/Pa).....	2
Service Area: Mansfield.....	2
Service Area: Westfield.....	1
*Wayne	
Service Area: Northern Wayne.....	2
Westmoreland	
Service Area: Connellsville.....	4
Service Area: Kiskadee Valley.....	2
Wyoming	
Service Area: Exeter.....	3
Service Area: Monroe/Noxen.....	3
York	
Service Area: York.....	3

PRIMARY CARE: Pennsylvania*Service Area Listing*

Service Area Name	Degree of shortage group
Arlington Heights/St. Clair.....	1
County—Allegheny	
Parts:	
C.T. 1603-1604	
C.T. 1606	
Austin-Emporium.....	2
County—Clinton	
Parts:	
*West Keating Twp.	
County—Cameron	
County—Potter	
Parts:	
*Austin Twp.	
*Keating Twp.	
*Portage Twp.	
*Sylvania Twp.	
*Wharton Twp.	
Big Valley.....	4
County—Huntingdon	
Parts:	
*Barree Twp.	
*Brady Twp. (N. 1/4)	
*Jackson Twp.	
*Miller Twp.	

**PRIMARY CARE: Pennsylvania—
Continued***Service Area Listing*

Service Area Name	Degree of shortage group
County—Mifflin	
Parts:	
*Armagh Twp.	
*Brown Twp.	
*Menno Twp.	
*Union Twp.	
Blossburg.....	2
County—Tioga	
Parts:	
*Bloss Twp.	
*Blossburg Boro.	
*Covington Twp.	
*Hamilton Twp.	
*Liberty Twp. (E. 1/2)	
*Liberty Boro.	
*Putnam Twp.	
*Union Twp.	
*Ward Twp.	
Broad Top (Area 22).....	3
County—Bedford	
Parts:	
*Broad Top Twp.	
*Coaldale Boro.	
*Hopewell Boro.	
*Liberty Twp.	
*Saxton Boro.	
County—Huntingdon	
Parts:	
*Broad Top City Boro.	
*Carbon Twp.	
*Cass Twp.	
*Cassville Boro.	
*Coalmont Boro.	
*Dudley Boro.	
*Hopewell Twp.	
*Todd Twp.	
*Wood Twp.	
Central McKean.....	4
County—McKean	
Parts:	
*Annis Twp.	
*Eldred Twp.	
*Eldred Boro.	
*Hamlin Twp. (E. 1/2)	
*Keating Twp.	
*Liberty Twp.	
*Mt. Jewett Twp. (E. 1/2)	
*Norwich Twp.	
*Otto Twp.	
*Port Allegany Boro.	
*Sergeant Twp.	
*Smethport Boro.	
City Of Chester.....	2
County—Delaware	
Parts:	
C.T. 4048	
C.T. 4049.01-4049.02	
C.T. 4050-4057	
C.T. 4058.01-4058.02	
C.T. 4059-4060	
Clay/Battelle.....	2
County—Greene	
Parts:	
*Aleppo Twp.	
*Freeport Twp.	
*Gilmore Twp.	
*Jackson Twp.	
*Springhill Twp.	
Confluence (Area 7).....	2
County—Somerset	
Parts:	
Addison Twp.	
Addison Boro.	
Casselman Boro.	

**PRIMARY CARE: Pennsylvania—
Continued***Service Area Listing*

Service Area Name	Degree of shortage group
Confluence Boro.	
Lower Turkeyfoot Twp.	
Upper Turkeyfoot Twp.	
Conneautville.....	2
County—Crawford	
Parts:	
*Beaver Twp.	
*Conneautville Boro.	
*Conneaut Twp.	
*Cussewago Twp. (W. 1/2)	
*Hawfield Twp. (W. 1/2)	
*Linesville Boro.	
*Pine Twp.	
*Springboro Boro.	
*Spring Twp.	
*Summerhill Twp.	
Connellsville.....	4
County—Fayette	
Parts:	
Bullskin Twp.	
Connellsville City	
Connellsville Twp.	
Dawson Boro.	
Dunbar Twp.	
Dunbar Boro.	
Everson Boro.	
Lower Tyrone Twp.	
S. Connellsville Boro.	
Saltlick Twp.	
Springfield Twp.	
Upper Tyrone Twp.	
Vanderbuilt Boro.	
County—Westmoreland	
Parts:	
E. Huntingdon Twp.	
Mt. Pleasant Twp.	
Mt. Pleasant Boro.	
S. Huntingdon Twp.	
Scottsdale Boro.	
Smithton Boro.	
Cromwell (Pining Area 25).....	1
County—Huntingdon	
Parts:	
*Clay Twp.	
*Cromwell Twp.	
*Dublin Twp.	
*Orbisonia Boro.	
*Rockhill Boro.	
*Saltlick Boro.	
*Shade Gap Boro.	
*Springfield Twp.	
*Tell Twp.	
*Three Springs Boro.	
Dayton Rural Valley.....	4
County—Armstrong	
Parts:	
*Atwood Boro.	
*Cowanshannock Twp.	
*Dayton Boro.	
*Redbank Twp. (W. 2/3)	
*Rural Valley Boro.	
*Wayne Twp.	
East Liverpool (Oh/Pa/Wv).....	3
County—Beaver	
Parts:	
Georgetown Boro.	
Glascow Boro.	
Greene Twp. (W. 1/3)	
Hookstown Boro.	
Ohioville Boro. (W. 1/3)	
Ebensburg.....	3
County—Cambria	
Parts:	
Blacklick Twp.	

PRIMARY CARE: Pennsylvania—
Continued

Service Area Listing

Service Area Name	Degree of shortage group
Cambria Twp. Ebensburg Boro. Jackson Twp. (Vincio) Nanty-Glo Boro. Vintondale Boro.	
Elkland (Ny/Pa).....	2
County—Tioga Parts: *Deerfield Twp. *Elkland Twp. *Elkland Boro. *Farmington Twp. *Knoxville Boro. *Nelson Twp. *Osceola Twp.	
Exeter.....	3
County—Luzerne Parts: Exeter Boro. Exeter Twp. Franklin Twp. West Wyoming Boro.	
County—Wyoming Parts: Exeter Twp. Falls Twp.	
Greensboro.....	2
County—Fayette Parts: German Twp. Masonstown Boro. Nicholson Twp. Point Marion Boro. Springhill Twp.	
County—Greene Parts: *Dunkard Twp. *Greene Twp. *Greensboro Boro. *Monogahela Twp.	
Hancock (Md/Pa/Wv).....	2
County—Fulton Parts: *Bethel Twp. *Thompson Twp. *Union Twp.	
Herndon.....	2
County—Northumberland Parts: *Herndon Boro. *Jackson Twp. *Jordan Twp. *Little Mahanoy Twp. *Lower Mahanoy Twp. (N. 1/2) *Upper Mahanoy Twp. *W. Cameron Twp. *Washington Twp.	
County—Schuylkill Parts: *Eldred Twp. *Upper Mahantango Twp.	
Homewood-Brushton.....	2
County—Allegheny Parts: C.T. 1207 C.T. 1301-1306	
Hyndman.....	1
County—Bedford Parts: *Harrison Twp. *Hyndman Boro. *Juniata Twp. *Londonderry Twp.	

PRIMARY CARE: Pennsylvania—
Continued

Service Area Listing

Service Area Name	Degree of shortage group
County—Somerset Parts: Allegheny Twp. Fairhope Twp. New Baltimore Boro.	
Kiski Valley.....	2
County—Armstrong Parts: *Apollo Boro. *Bethel Twp. *Burrell Twp. *Gilpen Twp. *Kiskiminetas Twp. *Leechburg Boro. *N. Apollo Boro. *Parks Twp. *South Bend Twp.	
County—Westmoreland Parts: Allegheny Twp. Avonmore Boro. Bell Twp. E. Vandergrift Boro. Hyde Park Boro. Oklahoma Boro. Vandergrift Boro. W. Leechburg Boro. Washington Twp.	
La Porte.....	4
County—Sullivan Parts: Cherry Twp. Colley Twp. Davidson Twp. Dushore Boro. Eagles Mere Boro. Elkland Twp. Forks Twp. Forksville Boro. Hills Grove Twp. La Porte Boro. La Porte Twp. Shrewsbury Twp.	
Lower N. Philadelphia.....	3
County—Philadelphia Parts: C.T. 125-142 C.T. 144-157 C.T. 162-169	
Mahaffey.....	1
County—Clearfield Parts: *Bell Twp. *Burnside Boro. *Burnside Twp. *Ferguson Twp. (W. 3/4) *Greenwood Twp. *Mahaffey Boro. *N. Washington Boro. *Newburg Boro.	
County—Indiana Parts: *Banks Twp. (E. 1/4) *Glen Campbell Boro.	
Mansfield.....	2
County—Tioga Parts: *Jackson Twp. *Lawrenceville Boro. *Lawrence Twp. *Mansfield Boro. *Richmond Twp. *Roseville Boro. *Rutland Twp.	

PRIMARY CARE: Pennsylvania—
Continued

Service Area Listing

Service Area Name	Degree of shortage group
*Sullivan Twp. *Tioga Twp. *Tioga Boro.	
Markleysburg.....	2
County—Fayette Parts: Henry Clay Twp. Markleysburg Boro. Ohiopyle Boro. Steward Twp. Wharton Twp.	
McKees Rocks-Stowe.....	3
County—Allegheny Parts: C.T. 4621 (Stowe Twp.) C.T. 4626 (Stowe Twp.) C.T. 4637-4639 (McKees Rocks Boro)	
Millersburg.....	2
County—Dauphin Parts: Berksburg Boro. Elizabethville Boro. Gratz Boro. Halifax Boro. Halifax Twp. Jackson Twp. (W. 3/4) Jefferson Twp. (W. 1/2) Lykens Twp. Mifflin Twp. Millersburg Boro. Reed Twp. Upper Paxton Boro. Washington Twp. Wayne Twp.	
County—Northumberland Parts: *Lower Mahanoy Twp. (S. 1/2)	
Monroe/Noxen.....	3
County—Luzerne Parts: Harvey's Lake Boro.	
County—Wyoming Parts: Forkston Twp. (S. 3/4) Monroe Twp. Northmoreland Twp. Noxen Twp.	
Mt. Pleasant Mills-Middleburg.....	2
County—Juniata Parts: *Monroe Twp. *Susquehanna Twp.	
County—Snyder Parts: *Beavertown Boro. *Beaver Twp. *Centre Twp. *Chapman Twp. *Franklin Twp. *Freeburg Boro. *Middleburg Boro. *Perry Twp. *Union Twp. *Washington Twp. *West Perry Twp.	
North Adams.....	3
County—Adams Parts: Arendtsville Boro. Bendersville Boro. Biglerville Boro. Butler Twp. Huntington Twp.	

PRIMARY CARE: Pennsylvania—
Continued

Service Area Listing

Service Area Name	Degree of shortage group
Menallen Twp. Tyrone Twp. York Springs Boro. Northeast Butler.....	3
County—Armstrong Parts: *Hovey Twp. *Parker City County—Butler Parts: *Allegheny Twp. *Bruin Boro. *Cherry Valley Boro. *Chicora Boro. *Concord Twp. *Donnegal Twp. *Eau Claire Boro. *Fairview Twp. *Fairview Boro. *Karna City Boro. *Parker Twp. *Petrolia Boro. *Venango Twp. *Washington Twp.	
Northern Wayne.....	
County—Wayne Parts: *Buckingham Twp. *Damascus Twp. *Lebanon Twp. *Manchester Twp. *Mt. Pleasant Twp. *Preston Twp. *Scott Twp. *Starrucca Boro.	2
Punxsutawney.....	
County—Armstrong Parts: *Redbank Twp. (Eastern 1/3)	3
County—Indiana Parts: *Banks Twp. (Western 3/4) *Canoe Twp. *Northern Mahoning (N.1/2) *Smicksburg Boro. *W. Mahoning (E. 1/4)	
County—Jefferson Parts: *Beaver Twp. (Southern 1/2) *Bell Twp. *Big Run Boro. *Gaskill Twp. *Henderson Twp. *McCalmont Twp. *Oliver Twp. *Perry Twp. *Porter Twp. *Punxsutawney Boro. *Ringgold Twp. *Timblin Boro. *Worthville Boro. *Young Twp.	
S. Central Clearfield.....	3
County—Clearfield Parts: *Beccaria Twp. *Bigler Twp. *Chest Twp. *Coalport Boro. *Glen Hope Boro. *Gulich Twp. *Irvona Boro. *Jordan Twp. *Ramey Boro.	

PRIMARY CARE: Pennsylvania—
Continued

Service Area Listing

Service Area Name	Degree of shortage group
*Westover Boro. Shamokin.....	3
County—Columbia Parts: Cleveland Twp. (S. 1/4) County—Northumberland Parts: *Coal Twp. *Kuipmont Boro. *Marion Heights Boro. *Mt. Carmel Twp. *Ralpho Twp. *Shamokin City *Zerbe Twp.	
Shinglehouse.....	2
County—McKean Parts: *Ceres Twp. County—Potter Parts: *Clara Twp. *Genesee Twp. *Oswayo Twp. *Oswayo Boro. *Pleasant Valley Twp. *Sharon Twp. *Shinglehouse Boro.	
Snow Shoe.....	1
County—Centre Parts: Boggs Twp. (S. 1/2) Burnside Twp. Curtin Twp. (E. 1/2) Snow Shoe Twp. Snow Shoe Boro. Union Twp. (S. 1/2) Unionville Boro.	
County—Clearfield Parts: *Cooper Twp. (N. 2/3) *Covington Twp. *Karthaus Twp.	4
South Philadelphia.....	
County—Philadelphia Parts: C.T. 13-14 C.T. 19-22 C.T. 33	4
Southern Erie.....	
County—Erie Parts: Albion Boro. Conneaut Twp. Cranesville Boro. Elk Creek Twp. Franklin Twp. Platea Boro. Springfield Twp.	4
Upper N. Philadelphia.....	
County—Philadelphia Parts: C.T. 170-176 C.T. 195-205	4
Valleys Community.....	
County—Franklin Parts: *Fannet Twp. *Metal Twp.	4
West Philadelphia.....	
County—Philadelphia Parts: C.T. 83-85 C.T. 92-96 C.T. 101-105	

PRIMARY CARE: Pennsylvania—
Continued

Service Area Listing

Service Area Name	Degree of shortage group
C.T. 111-113 Westfield.....	1
County—Potter Parts: Harrison Twp. (1/2) Hector Twp. (1/2) County—Tioga Parts: Brookfield Twp. Chatham Twp. (1/2) Clymer Twp. (1/2) Westfield Twp. Westfield Boro.	
York.....	3
County—York Parts: C.T. 1-3 C.T. 5 C.T. 7 C.T. 10 C.T. 15-16	

PRIMARY CARE: Pennsylvania

Population Group Listing

Population Group	Degree of shortage group
Medicaid—E. Liberty.....	1
County—Allegheny Parts: C.T. 808 C.T. 1006-1007 C.T. 1104 C.T. 1109-1110 C.T. 1201-1204 C.T. 1208	
Medicaid—Erie City.....	3
County—Erie Parts: Erie City—Medicaid	
Medicaid—Sharon/Farrell.....	4
County—Mercer Parts: Farrell City Sharon City	
Pov. Pop.—Welsh Mtn.	2
County—Lancaster Parts: Caernarvon Twp. East Earl Twp. Salisbury Twp. Terre Hill Boro.	
Span. Sp.—S.E. Lancaster.....	1
County—Lancaster Parts: C.T. 8-9 C.T. 14-16	

PRIMARY CARE: Rhode Island*County Listing*

County Name	Degree of shortage group
Bristol	
Population Group: Pov. Pop.—Bristol/E. Providence.....	3
Kent	
Population Group: Pov. Pop./Kent Co.	3
Providence	
Service Area: Central Falls/Central Pawtucket.....	2
Service Area: Northwest Providence.....	2
Service Area: Northwest Woonsocket.....	2
Population Group: Pov. Pop.—Bristol/E. Providence.....	3
Population Group: Pov. Pop./City Of Providence.....	3
Washington	
Service Area: West Washington.....	2
Population Group: Pov. Pop./East Washington 14.....	4

PRIMARY CARE: Rhode Island*Service Area Listing*

Service Area Name	Degree of shortage group
Central Falls/Central Pawtucket.....	2
County—Providence	
Parts:	
C.T. 108-111	
C.T. 149	
C.T. 151-154	
C.T. 161	
C.T. 164	
Northwest Providence	2
County—Providence	
Parts:	
Burrillville Twn.	
Foster Twn.	
Glocester Twn.	
Northwest Woonsocket.....	2
County—Providence	
Parts:	
C.T. 172	
C.T. 174	
C.T. 176	
C.T. 178-183	
West Washington.....	2
County—Washington	
Parts:	
Charlestown Twn.	
Exeter Twn.	
Hopkinton Twn.	
Richmond Twn.	

PRIMARY CARE: Rhode Island*Population Group Listing*

Population Group	Degree of shortage group
Pov. Pop.—Bristol/E. Providence.....	3
County—Bristol	
Parts:	
Pov. Pop. (Bristol)	
County—Providence	
Parts:	
C.T. 101.01-101.02 (Pov. Pop.)	

PRIMARY CARE: Rhode Island—Continued*Population Group Listing*

Population Group	Degree of shortage group
C.T. 102-104 (Pov. Pop.)	
C.T. 105.01-105.02 (Pov. Pop.)	
C.T. 106 (Pov. Pop.)	
C.T. 107.01-107.02 (Pov. Pop.)	
Pov. Pop./City Of Providence.....	3
County—Providence	
Parts:	
C.T. 1-37	
Pov. Pop./East Washington 14.....	4
County—Washington	
Parts:	
Narragansett Twn.	
North Kingstown Twn.	
South Kingstown Twn.	
Pov. Pop./Kent Co.....	3
County—Kent	
Parts:	
Pov. Pop.	

PRIMARY CARE: South Carolina*County Listing*

County Name	Degree of shortage group
*Abbeville	
Service Area: Calhoun Falls.....	2
Service Area: Ware Shoals/Princeton.....	3
*Allendale	2
Anderson	
Facility: Perry Corr. I.....	3
*Bamberg	
Service Area: Bamberg.....	4
Service Area: Ehrhart/Lodge.....	1
*Barnwell.....	3
*Beaufort	
Service Area: Sheldon.....	1
Service Area: St. Helena.....	1
Berkeley.....	1
*Calhoun.....	2
Charleston	
Service Area: McClellanville/Sampit/Santee.....	1
Service Area: Sea Island.....	2
Population Group: Pov. Pop.—Peninsula Charleston.....	2
*Chester	
Service Area: Richburg.....	4
*Chesterfield	
Service Area: Sandhills.....	2
Service Area: Society Hill.....	1
*Clarendon.....	2
*Colleton	
Service Area: Ehrhart/Lodge.....	1
*Darlington	
Service Area: Society Hill.....	1
*Dillon.....	4
Dorchester	
Service Area: St. George.....	1
*Edgefield	
Service Area: Johnston/Trenton.....	3
*Fairfield.....	3
Florence	
Service Area: Olanta.....	1
*Georgetown	
Service Area: McClellanville/Sampit/Santee.....	1
*Greenwood	
Service Area: Ware Shoals/Princeton.....	3
*Hampton.....	4

PRIMARY CARE: South Carolina—Continued*County Listing*

County Name	Degree of shortage group
*Horry	
Service Area: Little River.....	1
Service Area: Loris.....	3
*Jasper.....	4
*Kershaw	
Service Area: Bethune-Mt. Pisgah.....	1
*Lancaster	
Service Area: Heath Springs.....	4
*Laurens	
Service Area: Ware Shoals/Princeton.....	3
*Lee.....	3
Lexington	
Service Area: Batesburg/Leesville.....	3
Service Area: Pelion-Swansea.....	3
*Marion	
Service Area: Brittons Neck.....	1
*Marlboro.....	4
*McCormick.....	3
*Orangeburg	
Service Area: Eastern Orangeburg.....	4
Richland	
Service Area: Eastover.....	1
Facility: Central Corr. I.....	3
Facility: Kirkland Corr. I.....	3
Facility: Manning Corr. I.....	3
Facility: Women'S Corr. I.....	3
*Saluda.....	1
*Sumter	
Service Area: Olanta.....	1
*Union.....	2
*Williamsburg.....	2

PRIMARY CARE: South Carolina*Service Area Listing*

Service Area Name	Degree of shortage group
Bamberg.....	4
County—Bamberg	
Parts:	
*Bamberg CCD	
*Denmark CCD	
*Olar CCD	
Batesburg/Leesville.....	3
County—Lexington	
Parts:	
Batesburg/Leesville CCD	
Gilbert CCD	
Bethune-Mt. Pisgah.....	1
County—Kershaw	
Parts:	
*Bethune CCD	
*Mt. Pisgah CCD	
Brittons Neck.....	1
County—Marion	
Parts:	
*Brittons Neck CCD	
*Centenary CCD	
Calhoun Falls.....	2
County—Abbeville	
Parts:	
*Antreville/Lowndesville CCD	
*Calhoun Falls CCD	
Eastern Orangeburg.....	4
County—Orangeburg	
Parts:	
*Bowman CCD	
*Eiloree CCD	
*Eutawville CCD	

**PRIMARY CARE: South Carolina—
Continued***Service Area Listing*

Service Area Name	Degree of shortage group
*Holly CCD *Vance CCD	
Eastover.....	1
County—Richland	
Parts:	
Eastover CCD	
Hopkins CCD	
Ehrhart/Lodge.....	1
County—Bamberg	
Parts:	
*Ehrhart CCD	
County—Colleton	
Parts:	
*Lodge CCD	
*Smoaks CCD	
Heath Springs.....	4
County—Lancaster	
Parts:	
*Heath Springs CCD	
*Kershaw CCD	
Johnston/Trenton.....	3
County—Edgefield	
Parts:	
Johnston CCD	
Trenton CCD	
Little River.....	1
County—Horry	
Parts:	
*E.D. 680-684 (Longs CCD)	
*E.D. 689 (Longs CCD)	
*E.D. 693 (Longs CCD)	
*E.D. 775 (Longs CCD)	
Loris.....	3
County—Horry	
Parts:	
*Floyds CCD	
*Loris CCD	
*E.D. 690-692 (Longs Div.)	
*E.D. 694-695 (Aynor Div.)	
*E.D. 726-727 (Aynor Div.)	
*E.D. 730-731 (Aynor Div.)	
McClellanville/Sampit/Santee.....	1
County—Charleston	
Parts:	
C.T. 50	
County—Georgetown	
Parts:	
*E.D. 324-327	
Olanda.....	1
County—Florence	
Parts:	
Olanda CCD	
Sardis CCD	
County—Sumter	
Parts:	
*Shiloh CCD	
Pelion-Swansea.....	3
County—Lexington	
Parts:	
Pelion Twn.	
Swansea Twn.	
E.D. 72 (Swansea CCD)	
E.D. 726-728 (Swansea CCD)	
E.D. 730-731 (Pelion CCD)	
E.D. 736-739 (Pelion CCD)	
Richburg.....	4
County—Chester	
Parts:	
*Great Falls CCD	
*Landsford CCD	
*Richburg CCD	
*E.D. 397-398 (Chester CCD)	
*E.D. 402 (Chester CCD)	
*E.D. 406 (Chester CCD)	

**PRIMARY CARE: South Carolina—
Continued***Service Area Listing*

Service Area Name	Degree of shortage group
Sandhills.....	2
County—Chesterfield	
Parts:	
*Jefferson CCD	
*McBee CCD	
*Pageland CCD	
Sea Island.....	2
County—Charleston	
Parts:	
Edisto Is.	
James Is.	
Johns Is.	
Wadualaw Is.	
Sheldon.....	1
County—Beaufort	
Parts:	
*Sheldon CCD	
Society Hill.....	1
County—Chesterfield	
Parts:	
*E.D. 461 (Cheraw CCD)	
*E.D. 463 (Cheraw CCD)	
County—Darlington	
Parts:	
*E.D. 550-554 (Society Hill CCD)	
St. George.....	1
County—Dorchester	
Parts:	
Harleyville CCD	
Reevesville CCD	
Ridgeville CCD	
St. George CCD	
St. Helena.....	1
County—Beaufort	
Parts:	
*St. Helena CCD	
Ware Shoals/Princeton.....	3
County—Abbeville	
Parts:	
*Donalds CCD	
County—Greenwood	
Parts:	
*Ware Shoals/Hodges CCD	
County—Laurens	
Parts:	
*Princeton CCD	

PRIMARY CARE: South Carolina*Population Group Listing*

Population Group	Degree of shortage group
Pov. Pop.-Peninsula Charleston.....	2
County—Charleston	
Parts:	
C.T. 1-18	
C.T. 33-37	
C.T. 41-45	

PRIMARY CARE: South Carolina*Facility Listing*

Facility Name	Degree of shortage group
Central Corr. I.....	3
County—Richland	
Kirkland Corr. I.....	3
County—Richland	
Manning Corr. I.....	3
County—Richland	
Perry Corr. I.....	3
County—Anderson	
Women's Corr. I.....	3
County—Richland	

PRIMARY CARE: South Dakota*County Listing*

County Name	Degree of shortage group
*Aurora	
Service Area: Corsica/Armour.....	4
Service Area: Wessington Springs.....	2
*Bennett.....	4
*Bon Homme.....	4
*Brown	
Service Area: Britton.....	1
Service Area: Ellendale/Edgely (Nd/Sd).....	2
*Buffalo	
Service Area: Wessington Springs.....	2
*Butte	
Service Area: Newell.....	1
Campbell	
Service Area: Eureka/Herreid.....	2
*Charles Mix	
Service Area: Wagner.....	1
*Clark.....	1
*Clay	
Service Area: Beresford/Alcester.....	2
*Corson	
Service Area: Isabel.....	1
Service Area: Lemmon (Sd/Nd).....	1
Service Area: McLaughlin.....	1
*Custer	
Service Area: Hot Springs.....	4
*Deuel	
Service Area: Canby (Mn/Sd).....	4
Service Area: Clearlake.....	1
*Dewey	
Service Area: Eagle Butte.....	1
Service Area: Isabel.....	1
*Douglas	
Service Area: Corsica/Armour.....	4
*Edmunds	
Service Area: Bowdle.....	3
Service Area: Hoven.....	1
Service Area: Ipswich/Leola.....	2
Fall River	
Service Area: Hot Springs.....	4
*Faulk.....	4
*Grant	
Service Area: Milbank.....	2
Service Area: Ortonville (Mn/Sd).....	4
*Gregory	
Service Area: Wagner.....	1
Haakon	
Service Area: Philip.....	2
*Hamlin.....	1
*Hanson	
Service Area: Salem.....	1
*Harding.....	1
*Hyde	
Service Area: Gattysburg.....	2

PRIMARY CARE: South Dakota—
Continued

County Listing

County Name	Degree of shortage group
Service Area: Highmore.....	1
*Jackson	
Service Area: Kadoka.....	4
Service Area: Philip.....	2
Jerauld	
Service Area: Wessington Springs.....	2
*Jones.....	2
*Lincoln	
Service Area: Beresford/Alcester.....	2
*Lyman.....	3
Marshall	
Service Area: Britton.....	1
McCook	
Service Area: Salem.....	1
*McPherson	
Service Area: Eureka/Herreid.....	2
Service Area: Ipswich/Leola.....	2
*Meade	
Service Area: Faith.....	2
*Miner.....	1
*Moody.....	3
Pennington	
Service Area: Philip.....	2
*Perkins	
Service Area: Faith.....	2
Service Area: Lemmon (Sd/Nd).....	1
*Potter	
Service Area: Gettysburg.....	2
Service Area: Hoven.....	1
*Roberts	
Service Area: Milbank.....	2
Service Area: Ortonville (Mn/Sd).....	4
*Sanborn	
Service Area: Wessington Springs.....	2
*Shannon.....	1
*Spink.....	3
*Sully	
Service Area: Gettysburg.....	2
*Todd.....	1
*Union	
Service Area: Beresford/Alcester.....	2
Service Area: Elk Point.....	2
*Walworth	
Service Area: Bowdle.....	3
Service Area: Hoven.....	1
*Ziebach	
Service Area: Eagle Butte.....	1
Service Area: Faith.....	2
Service Area: Isabel.....	1

PRIMARY CARE: South Dakota

Service Area Listing

Service Area Name	Degree of shortage group
Beresford/Alcester.....	2
County—Clay	
Parts:	
Glenwood Twp.	
County—Lincoln	
Parts:	
Beresford City	
Brooklyn Twp.	
Pleasant Twp.	
County—Union	
Parts:	
Alcester Twp.	
Alcester City	
Beresford City	

PRIMARY CARE: South Dakota—
Continued

Service Area Listing

Service Area Name	Degree of shortage group
Big Springs Twp.	
Emmet Twp.	
Prairie Twp.	
Virginia Twp.	
Bowdle.....	3
County—Edmunds	
Parts:	
*Bowdle City	
*Bowdle Twp.	
*Cloyd Valley Twp.	
*Cottonwood Lake Twp.	
*Glen Twp.	
*Glover Twp.	
*Hosmer Twp.	
*Hosmer City	
*Modena Twp.	
*Odessa Twp.	
*Roscoe City	
*Sangamon Twp.	
County—Walworth	
Parts:	
*E. Walworth Unorg. (N.3/4)	
*Java City	
*Selby City	
Britton.....	1
County—Brown	
Parts:	
Hecla City	
Helca Twp.	
Lansing Twp.	
N. Detroit Twp.	
Portage Twp.	
S. Detroit Twp.	
County—Marshall	
Canby (Mn/Sd).....	4
County—Deuel	
Parts:	
*Gary City	
*Herrick Twp.	
Clearlake.....	1
County—Deuel	
Parts:	
*Altamont City	
*Altamont Twp.	
*Antelope Valley Twp.	
*Astoria City	
*Blom Twp.	
*Brandt City	
*Brandt Twp.	
*Clear Lake City	
*Clearlake Twp.	
*Glenwood Twp.	
*Goodwin City	
*Goodwin Twp.	
*Grange Twp.	
*Havana Twp.	
*Hidewood Twp.	
*Lowe Twp.	
*Norden Twp.	
*Portland Twp.	
*Rome Twp.	
*Scandinavia Twp.	
*Toronto Twp.	
Corsica/Armour.....	4
County—Aurora	
Parts:	
*Aurora Twp.	
*Center Twp.	
*Trura Twp.	
*Washington Twp.	
County—Douglas	
Eagle Butte.....	1

PRIMARY CARE: South Dakota—
Continued

Service Area Listing

Service Area Name	Degree of shortage group
County—Dewey	
Parts:	
*Eagle Butte Twp.	
*N. Dewey (Unorg.) S. 1/6	
*North Eagle Butte	
*S. Dewey (Unorg.) S. 1/2	
County—Ziebach	
Parts:	
*S. Ziebach (Unorg.) E. 1/2	
Elk Point.....	2
County—Union	
Parts:	
Brule Twp.	
Civil Bend Twp. (N. 1/2)	
Elk Point Twp.	
Elk Point City	
Jefferson City	
Jefferson Twp. (N. 1/2)	
Richland (Unorg.)	
Ellendale/Edgely (Nd/Sd).....	2
County—Brown	
Parts:	
*Allison Twp.	
*Frederick Twp.	
*Frederick Twp.	
*Greenfield Twp.	
*Liberty Twp.	
*Osceola Twp.	
*Palmyra Twp.	
*Richland Twp.	
*Savo Twp.	
Eureka/Herreid.....	2
County—Campbell	
County—McPherson	
Parts:	
Eureka City	
Hillview Twp.	
W. McPherson (Unorg.)	
Faith.....	2
County—Meade	
Parts:	
*Eagle Twp.	
*Faith City	
*Howard Twp.	
*North Meade (Unorg.)	
*Union Twp.	
*Upper Red Owl Twp.	
County—Perkins	
Parts:	
*Ada Twp.	
*Antelope Twp.	
*Back Twp.	
*Brushy Twp.	
*Chance Twp.	
*Chadoin Twp.	
*Duell Twp.	
*Englewood Twp.	
*Foster Twp.	
*Hall Twp.	
*Highland Twp.	
*Lana Tree Twp.	
*Maltby Twp.	
*Martin Twp.	
*Moreau Twp.	
*S.W. Perkins (Unorg.)	
*South Perkins (Unorg.)	
*Vickers Twp.	
*Vrooman Twp.	
*Wells Twp.	
*West Central Perkins (Unorg.)	
*West Perkins (Unorg.)	
*Wynadotte Twp.	

PRIMARY CARE: South Dakota—
Continued

Service Area Listing

Service Area Name	Degree of shortage group
County—Ziebach Parts: *Dupree City *Dupree (Unorg.) *N. Ziebach (Unorg.) W. 1/2 *S. Ziebach (Unorg.) W. 1/2	2
Gettysburg County—Hyde Parts: North Hyde (Unorg.)	
County—Potter Parts: C. Potter (Unorg.) S. 1/2 E. Potter (Unorg.) S. 1/2 Gettysburg City Lebanon Twn.	
County—Sully Parts: Agar Twn. E. Sully (Unorg.) N. 1/2 Onida City W. Sully (Unorg.) N. 1/2	
Highmore County—Hyde Parts: Central Hyde (Unorg.) Crow Creek (Unorg.) Dewey Twp. Highmore City Valley Twp. Washington Twp. William Hamilton Twp.	1
Hot Springs County—Custer Parts: Buffalo Gap City E. Custer (Unorg.) S. 1/4 W. Custer (Unorg.) S. 1/4	4
County—Fall River	1
Hoven County—Edmunds Parts: *Hillside Twp. *Hudson Twp. *Madison Twp.	
County—Potter Parts: *C. Potter (Unorg. N. 1/2) *E. Potter (Unorg. N. 1/2) *Hoven Twn. *Tolstoy Twn.	
County—Walworth Parts: *Akeska Twn. *E. Walworth Unorg. (S. 1/4) *Lowry City *W. Walworth Unorg. (S. 1/4)	
Ipswich/Leola County—Edmunds Parts: Adrian Twp. Belle Twp. Bryant Twp. Cleveland Twp. Fountain Twp. Harmony (Unorg.) Huntley Twp. Ipswich City Ipswich Twp. Kent Twp. Liberty Twp. Loyalton City Montpelier Twp. North Bryant Twp.	2

PRIMARY CARE: South Dakota—
Continued

Service Area Listing

Service Area Name	Degree of shortage group
Powell Twp. Rosette Twp. Union Twp. Vermont Twp. County—McPherson Parts: C. McPherson (Unorg.) Carl Twp. Hoffman Twp. Leola City Long Lake Twn. Wachter Twn. Wacker Twn. Weber Twp. Wetoka Twn.	1
Isabel County—Corson Parts: *Fairview Twp. *Pleasant Ridge Twp.	
County—Dewey Parts: *Isabel City *N. Dewey (Unorg.) N. 5/6 *S. Dewey (Unorg.) N. 1/2 *Timber Lake City	
County—Ziebach Parts: *N. Ziebach (Unorg.) E. 1/2	
Kadoka County—Jackson Parts: E. Jackson (Unorg.) S. 2/3 E. Jackson (Unorg.) S. 2/3 E. Washabaugh (Unorg.) Kadoka Twn. W. Washabaugh (Unorg.) Wall Twp.	4
Lammon (Sd/Nd) County—Corson Parts: Custer Twp. Delaney Twp. Grand Valley Twp. Lake Twp. McIntosh City Morristown Twn. Pioneer Twp. Prairie View Twp. Riverside Twp. Rolling Green Twp. Sherman Twp. Thunder Hawk Twp. Twin Butte Twp. Wautaga Twp. West Corson (Unorg.)	1
County—Perkins Parts: Anderson Twp. Barrett Twp. Bison Twn. Bison Twp. Burdick Twp. Cash Twp. Castle Butte Twp. Clark Twp. De Witt Twp. Duck Creek (Unorg.) East Perkins (Unorg.) Flat Creek Twp. Fredlund Twp. Glendo Twp. Grand River Twp. Horse Creek Twp.	

PRIMARY CARE: South Dakota—
Continued

Service Area Listing

Service Area Name	Degree of shortage group
Hudgins (Unorg.) Independence Twp. Lemmon City Liberty Twp. Lincoln Twp. Lodgepole Twp. Marshfield Twp. Meadow Twp. Plateau Twp. Pleasant Valley Twp. Rainbow Twp. Rockford Twp. Scotch Cap Twp. Seim Twp. Sidney Twp. Strool Twp. Trail Twp. Vail Twp. Viking Twp. White Butte Twp. White Hill Twp. Whitney Twp. Wilson Twp.	1
McLaughlin County—Corson Parts: *Cadillac Twp. *Central Corson (Unorg.) *Lincoln Twp. *Mahto Twp. *McLaughlin Twp. *McLaughlin City *N.E. Corson (Unorg.) *Walker Twp.	
Milbank County—Grant Parts: Adams Twp. Alben Twp. Albee Twn. Blooming Valley Twp. Farmington Twp. Georgia Twp. Grant Center Twp. Kilborn Twp. La Bolt Twn. Lura Twp. Madison Twp. Marvin Twn. Mazeppa Twp. Melrose Twp. Milbank City Osceola Twp. Revillo Twn. Stockholm Twp. Stockholm Twn. Strandburg Twn. Troy Twp. Twin Brooks Twp. Twin Brooks Twn. Vernon Twp.	
County—Roberts Parts: Garfield Twp. Genesee Twp.	
Newell County—Butte Parts: Cottonwood Twp. East Butte (Unorg.) Newell Twn. Union Twp. Vale Twp.	1
Ortonville (Mn/Sd)	

**PRIMARY CARE: South Dakota—
Continued***Service Area Listing*

Service Area Name	Degree of shortage group
County—Grant Parts: *Big Stone Twp. *Big Stone City	
County—Roberts Parts: *Lockwood Twp.	
Philip	2
County—Jackson Parts: Cottonwood Twn. E. Jackson (Unorg.) N.1/3 Grandview Twp. Interior Twn. Interior Twp. Jewett Twp. Little Buffalo Twp. N.W. Jackson (Unorg.) Weta Twp.	
County—Haakon	
County—Pennington Parts: Ash Twp. Badlands (Unorg.) Castle Butte Twp. Cedar Butte Twp. Cheyenne Twp. Conata Twp. Crooked Creek Twp. Datzell Canyon (Unorg.) Fairview Twp. Flat Butte Twp. Huron Twp. Imlay Twp. Lake Creek (Unorg.) Lake Flat Twp. Lake Hill Twp. N.E. Pennington (Unorg.) Owanka Twp. Peno Twp. Quinn Twn. Quinn Twp. Rainey Creek Twp. Scenic Twp. Shyne Twp. Sunnyside Twp. Wall Twn. Wasta Twp. Wasta Twn.	
Salem	1
County—Hanson Parts: Edgerton Twp. Emery Twp. Farmer Twn. Spring Lake Twp. Taylor Twp.	
County—McCook	
Wagner	1
County—Charles Mix Parts: Bryan Twp. Choteau Creek Twp. Dante Twn. Goose Lake Twp. Highland Twp. Howard Twp. Kennedy Twp. Lake Andes City Lawrence Twp. Lone Tree Twp. Plain Center Twp. Ravinia Twn. Ree Twp.	

**PRIMARY CARE: South Dakota—
Continued***Service Area Listing*

Service Area Name	Degree of shortage group
Rouse Twp. Wagner City Wahehe Twp. White Swan Twp.	
County—Gregory Parts: S.E. Gregory (Unorg.) Star Valley Twp.	
Wessington Springs	2
County—Aurora Parts: Belford Twp. Bristol Twp. Cooper Twp. Crystal Lake Twp. Eureka Twp. Firesteel Twp. Gales Twp. Hopper Twp. Lake Twp. Palatine Twp. Patten Twp. Plankinton City Plankinton Twp. Pleasant Lake Twp. Pleasant Valley Twp. White Lake City White Lake Twp.	
County—Buffalo Parts: Elvira Twp. S.E. Buffalo (Unorg.)	
County—Jerauld	
County—Sanborn Parts: Floyd Twp. Jackson Twp. Logan Twp. Oneida Twp. Silver Creek Twp. Twin Lake Twp. Union Twp. Warren Twp. Woonsocket Twp. Woonsocket City	

PRIMARY CARE: Tennessee*County Listing*

County Name	Degree of shortage group
Anderson Service Area: Briceville	1
*Benton Service Area: Holladay	1
*Bledsoe	3
Blount Service Area: Tallassee	1
*Campbell	4
Carter Service Area: Roan Mountain	1
*Chester	2
*Clay	3
*Cocke	4
*Crockett	3
Davidson Population Group: Pov. & Homeless Pop.—Nashville	1
*Decatur	2

**PRIMARY CARE: Tennessee—
Continued***County Listing*

County Name	Degree of shortage group
Dickson Service Area: Vanleer/Slaydon	1
*Fayette	2
*Fentress	4
Grainger	1
*Greene Service Area: Baileytown	1
*Grundy	3
Hamilton Population Group: Pov. Pop.—Chattanooga	3
*Hancock	4
*Hardeman	4
*Hardin Service Area: Saltillo	1
Hawkins	1
*Haywood	4
*Henderson	3
*Hickman	3
*Houston	4
*Jackson	4
*Lake	1
*Lauderdale	2
*Lewis	4
*Lincoln Service Area: Cash Point	1
*Macon	1
Marion Service Area: Whitwell	4
*Meigs	1
*Monroe	4
Montgomery Service Area: Vanleer/Slaydon	1
*Morgan	1
*Obion Service Area: Hornbeak-Samburg	1
*Overton	4
*Pickett	2
*Polk	2
*Rhea	3
*Roane Service Area: Barnard	1
Rutherford Service Area: Eagleville	1
*Scott	1
Sevier	4
Shelby Population Group: Pov. Pop./S.W. Memphis	1
Population Group: Pov. Pop./N.W. Memphis	1
*Stewart	2
Tipton	4
Unicoi	4
Union	1
*Van Buren	3
*Wayne	3
*Weakley Service Area: Dukedom/Palmersville	1

PRIMARY CARE: Tennessee*Service Area Listing*

Service Area Name	Degree of shortage group
Baileytown	1
County—Greene Parts: *Baileytown CCD.	

**PRIMARY CARE: Tennessee—
Continued***Service Area Listing*

Service Area Name	Degree of shortage group
Barnard.....	1
County—Roane	
Parts:	
*Barnard CCD	
Briceville.....	1
County—Anderson	
Parts:	
Lake City West CCD	
New River CCD	
Cash Point.....	1
County—Lincoln	
Parts:	
*Cash Point/Blanche CCD	
Dukedom/Palmersville.....	1
County—Weakley	
Parts:	
*Chestnut Glade-Dukedom CCD	
*Palmersville CCD	
Eagleville.....	1
County—Rutherford	
Parts:	
Eagleville CCD	
Holladay.....	1
County—Benton	
Parts:	
*Holladay CCD	
Hornbeak-Samburg.....	1
County—Obion	
Parts:	
*Hornbeak/Samburg CCD	
Roan Mountain.....	1
County—Carter	
Parts:	
Laurel Fork CCD	
Roan Mountain CCD	
Tiger Valley CCD	
Saltville.....	1
County—Hardin	
Parts:	
*Saltville CCD	
Tallassee.....	1
County—Blount	
Parts:	
Lanier CCD	
Vanleer/Slaydon.....	1
County—Dickson	
Parts:	
Vanleer CCD	
County—Montgomery	
Parts:	
Palmyra/Shiloh CCD	
Whitwell.....	4
County—Marion	
Parts:	
Whitwell CCD	

PRIMARY CARE: Tennessee*Population Group Listing*

Population Group	Degree of shortage group
Pov. & Homeless Pop.—Nashville.....	1
County—Davidson	
Parts:	
Homeless Pop.	
C.T. 112-126	
C.T. 128-130	
C.T. 132-152	
C.T. 158-181	

**PRIMARY CARE: Tennessee—
Continued***Population Group Listing*

Population Group	Degree of shortage group
Pov. Pop.—Chattanooga.....	3
County—Hamilton	
Parts:	
C.T. 1-16	
C.T. 18-27	
C.T. 31	
C.T. 115	
Pov. Pop./N.W. Memphis.....	1
County—Shelby	
Parts:	
C.T. 1-10	
C.T. 18-24	
C.T. 80	
Pov. Pop./S.W. Memphis.....	1
County—Shelby	
Parts:	
C.T. 40-69	
C.T. 75	
C.T. 78.10	
C.T. 78.20	

PRIMARY CARE: Texas*County Listing*

County Name	Degree of shortage group
*Anderson	
Facility: Beto II Prs.....	3
Facility: Beto Prs.....	2
Facility: Coffield Prs.....	3
*Archer.....	3
*Armstrong.....	2
*Atascosa.....	3
*Bailey.....	4
*Bandera.....	2
*Bee.....	4
Bexar	
Service Area: San Antonio (West Side).....	3
Service Area: San Antonio (South Side).....	2
Service Area: San Antonio (Southern Rural).....	1
Service Area: San Antonio (Eastside).....	1
*Borden.....	1
Brazoria	
Facility: Clemons Prs.....	1
Facility: Darrington Prs.....	2
Facility: Ramsey I Prs.....	3
Facility: Ramsey II Prs.....	1
Facility: Ramsey III Prs.....	1
Facility: Retrieve Prs.....	1
*Briscoe.....	1
Cameron	
Population Group: Pov./Mig. Pop.—Cameron Co.....	4
*Carson.....	1
*Castro.....	4
*Chambers.....	3
*Coke.....	1
*Coleman.....	3
*Coilingsworth.....	1
Coryell	
Facility: Hilltop Prs.....	1
*Crockett.....	2
*Crosby.....	2
*Culberson.....	3
*Dallam.....	1
Dallas	
Service Area: Lisbon.....	1

PRIMARY CARE: Texas—Continued*County Listing*

County Name	Degree of shortage group
Service Area: Simpson Stuart.....	2
Service Area: South Dallas.....	4
Service Area: Trinity.....	1
Service Area: West Dallas.....	1
Population Group: Am. In. Below Pov./Dallas-Ft. Worth.....	1
Facility: Parkland Hospital P.C. Outpt. Clinics.....	1
*Daef Smith.....	4
*Delta.....	4
*Dickens	
Service Area: Dickens-King.....	1
Dimmit	
Service Area: Dimmit-Zavala.....	3
*Donley.....	2
*Duval.....	4
El Paso	
Service Area: South El Paso.....	2
Service Area: Southeast El Paso.....	1
*Falls.....	2
Fort Bend	
Facility: Central Prs.....	1
Facility: Jester II Prs.....	2
Facility: Jester III Prs.....	1
*Frio.....	2
*Gaines.....	4
Galveston	
Service Area: Bolivar Peninsula.....	1
*Glasscock.....	1
*Goliad.....	3
*Gonzales.....	4
*Grimes	
Facility: Pack I Prs.....	1
Facility: Pack II Prs.....	1
*Hale	
Population Group: Mig.Pop.—Hale Co.....	4
Hardin.....	4
*Hartley.....	1
Hidalgo	
Population Group: Pov./Mig. Pop.—Hidalgo Co.....	3
*Hockley.....	4
*Houston	
Facility: Eastham Prs.....	2
*Hudspeth.....	1
*Hunt	
Population Group: Pov Pop.—Hunt Co.....	3
*Irion.....	1
*Jackson.....	2
*Jeff Davis	
Service Area: Fort Davis/Marfa.....	2
Jefferson	
Service Area: Beaumont Inner City.....	1
Service Area: Port Arthur Inner City.....	1
*Karnes.....	4
*Kenedy.....	1
*Kent.....	1
*Kimble.....	1
*King	
Service Area: Dickens-King.....	1
*Knox.....	4
*La Salle.....	1
*Lampasas.....	2
Leon	
*Leon	
Service Area: Leon/Madison.....	2
Service Area: Leon/Madison.....	2
*Lipscomb.....	2
*Live Oak.....	4
*Loving.....	1
Lubbock	
Service Area: East Lubbock.....	1
*Lynn.....	1
Madison	
*Madison	
Service Area: Leon/Madison.....	2

PRIMARY CARE: Texas—Continued

County Listing

County Name	Degree of shortage group
Service Area: Leon/Madison.....	2
Facility: Ferguson Prs.....	2
Facility: Ferguson Prs.....	2
*Marion.....	1
*Mason.....	3
*Maverick.....	2
*McMullen.....	1
*Medina.....	4
*Mills.....	3
*Mitchell.....	4
*Motley.....	1
*Nacogdoches	
Population Group: Pov. Pop.—Nacogdoches Co.....	3
*Newton.....	1
*Oldham.....	1
*Panola.....	4
*Parmer.....	1
*Pecos.....	4
*Polk.....	4
*Presidio	
Service Area: Fort Davis/Marfa.....	2
Service Area: Presidio.....	2
*Rains.....	2
*Real.....	1
*Red River.....	3
*Refugio.....	2
*Sabine.....	1
*San Augustine.....	4
*San Jacinto.....	1
*San Saba.....	1
*Sherman	
Service Area: Texhoma.....	1
*Starr.....	1
*Sutton.....	1
Tarrant	
Service Area: Poly/Stop Six.....	1
Population Group: Am. In. Below Pov./Dallas-Ft. Worth.....	1
*Terrell.....	1
*Terry.....	2
*Throckmorton.....	1
*Trinity.....	1
*Uvalde	
Population Group: Pov. Pop.—Uvalde Co.....	4
*Val Verde.....	2
*Van Zandt.....	4
*Walker	
Facility: Diagnostic Prs.....	3
Facility: Ellis Prs.....	2
Facility: Goree Prs.....	1
Facility: Huntsville Prs.....	1
Facility: Wynne Prs.....	2
*Ward.....	4
Webb.....	4
*Willacy.....	4
*Wilson.....	2
*Yoakum.....	1
*Zapata.....	3
Zavala	
Service Area: Dimmit-Zavala.....	3

PRIMARY CARE: Texas

Service Area Listing

Service Area Name	Degree of shortage group
Beaumont Inner City.....	1
County—Jefferson	
Parts:	
C.T. 1.03	
C.T. 8-10	
C.T. 15-19	
Bolivar Peninsula.....	1
County—Galveston	
Parts:	
C.T. 1254	
Dickens-King.....	1
County—Dickens	
County—King	
Dimmit-Zavala.....	3
County—Dimmit	
County—Zavala	
East Lubbock.....	1
County—Lubbock	
Parts:	
C.T. 2.01-2.02	
C.T. 3	
C.T. 8-11	
C.T. 12.01-12.02	
C.T. 25	
Fort Davis/Marfa.....	2
County—Jeff Davis	
County—Presidio	
Parts:	
*Marfa CCD	
Leon/Madison.....	2
County—Leon	
County—Madison	
County—Madison	
Lisbon.....	1
County—Dallas	
Parts:	
C.T. 58-57	
C.T. 59.01-59.02	
C.T. 87.01	
C.T. 87.03-87.05	
C.T. 88.01-88.02	
Poly/Stop Six.....	1
County—Tarrant	
Parts:	
C.T. 1035	
C.T. 1036.01	
C.T. 1037.01-1037.02	
C.T. 1046.01	
C.T. 1046.04	
C.T. 1062.01-1062.02	
C.T. 1063	
Port Arthur Inner City.....	1
County—Jefferson	
Parts:	
C.T. 51-54	
C.T. 57-62	
Presidio.....	2
County—Presidio	
Parts:	
*Presidio CCD	
San Antonio (Eastside).....	1
County—Bexar	
Parts:	
C.T. 1102-1103	
C.T. 1110	
C.T. 1301-1312	
C.T. 1401	
San Antonio (South Side).....	2
County—Bexar	
Parts:	
C.T. 1501	
C.T. 1503-1507	
C.T. 1510	
C.T. 1601-1605	
San Antonio (Southern Rural).....	1

PRIMARY CARE: Texas—Continued

Service Area Listing

Service Area Name	Degree of shortage group
County—Bexar	
Parts:	
C.T. 1418-1418	
C.T. 1519-1522	
C.T. 1610-1612	
C.T. 1619-1620	
San Antonio (West Side).....	3
County—Bexar	
Parts:	
C.T. 1606-1607	
C.T. 1701	
C.T. 1703-1704	
C.T. 1707-1712	
C.T. 1715-1716	
Simpson Stuart.....	2
County—Dallas	
Parts:	
C.T. 112-113	
C.T. 114.01-114.02	
C.T. 167.01	
C.T. 169.01	
South Dallas.....	4
County—Dallas	
Parts:	
C.T. 29-30	
C.T. 32.02	
C.T. 33-38	
C.T. 39.01-39.02	
C.T. 40	
C.T. 115	
South El Paso.....	2
County—El Paso	
Parts:	
C.T. 17-21	
C.T. 28-29	
Southeast El Paso.....	1
County—El Paso	
Parts:	
C.T. 39-40	
C.T. 104-105	
Texhoma.....	1
County—Sherman	
Parts:	
*Stratford East CCD	
Trinity.....	1
County—Dallas	
Parts:	
C.T. 41	
C.T. 49	
C.T. 54-55	
C.T. 86.01-86.02	
C.T. 89	
West Dallas.....	1
County—Dallas	
Parts:	
C.T. 43	
C.T. 101-108	

PRIMARY CARE: Texas

Population Group Listing

Population Group	Degree of shortage group
Am. In. Below Pov./Dallas-Ft. Worth.....	1
County—Dallas	
Parts:	
Am. In. Below Pov.	
County—Tarrant	
Parts:	
Am. In. Below Pov.	

PRIMARY CARE: Texas—Continued

Population Group Listing

Population Group	Degree of shortage group
Mig. Pop.—Hale Co.	4
County—Hale	
Parts:	
Mig. Pop.	
Pov. Pop.—Hunt Co.	3
County—Hunt	
Parts:	
Pov. Pop.	
Pov. Pop.—Nacogdoches Co.	3
County—Nacogdoches	
Pov. Pop.—Uvalde Co.	4
County—Uvalde	
Parts:	
Pov. Pop.	
Pov./Mig. Pop.—Cameron Co.	4
County—Cameron	
Parts:	
Mig. Pop.	
Pov. Pop.	
Pov./Mig. Pop.—Hidalgo Co.	3
County—Hidalgo	
Parts:	
Mig. Pop.	
Pov. Pop.	

PRIMARY CARE: Texas

Facility Listing

Facility Name	Degree of shortage group
Beto II Prs.	3
County—Anderson	
Beto Prs.	2
County—Anderson	
Central Prs.	1
County—Fort Bend	
Clemons Prs.	1
County—Brazoria	
Coffield Prs.	3
County—Anderson	
Darrington Prs.	2
County—Brazoria	
Diagnostic Prs.	3
County—Walker	
Eastham Prs.	2
County—Houston	
Ellis Prs.	2
County—Walker	
Ferguson Prs.	2
County—Madison	
County—Madison	
Goree Prs.	1
County—Walker	
Hilltop Prs.	1
County—Coryell 4	
Huntsville Prs.	1
County—Walker	
Jester II Prs.	2
County—Fort Bend	
Jester III Prs.	1
County—Fort Bend	
Pack I Prs.	1
County—Grimes 3	
Pack II Prs.	1
County—Grimes 3	
Parkland Hospital P.C. Outpt. Clinics	1
County—Dallas	
Parkland Memorial Hosp.	
Ramsey I Prs.	3

PRIMARY CARE: Texas—Continued

Facility Listing

Facility Name	Degree of shortage group
County—Brazoria	
Ramsey II Prs.	1
County—Brazoria	
Ramsey III Prs.	1
County—Brazoria	
Retrieve Prs.	1
County—Brazoria	
Wynne Prs.	2
County—Walker	

PRIMARY CARE: Utah

County Listing

County Name	Degree of shortage group
*Daggett.	1
*Duchesne	
Service Area: Roosevelt.	4
*Emery	
Service Area: Castle Dale.	1
Service Area: Green River.	1
*Garfield	
Service Area: Panguitch.	2
*Grand	
Service Area: Green River.	1
*Iron	
Service Area: Enterprise.	1
*Juab	
Service Area: Wendover (Ut/Nv).	1
Kane	
*Kane	
Service Area: Kanab/Fredonia (Ut/Az).	2
Service Area: Kanab/Fredonia (Ut/Az).	2
*Millard	
Service Area: Delta.	1
*Piute	
Service Area: Richfield.	4
*Rich.	1
Salt Lake	
Population Group: Pov Pop—N.W. Salt Lake.	4
*San Juan	
Service Area: Blanding/Monticello.	1
Service Area: Montezuma Creek.	1
Sevier	
Service Area: Richfield.	4
*Tooele	
Service Area: Tooele.	2
Service Area: Wendover (Ut/Nv).	1
*Uintah	
Service Area: Roosevelt.	4
Service Area: Vernal.	4
*Washington	
Service Area: Enterprise.	1
Service Area: Hurricane.	1
*Wayne.	1
Weber	
Service Area: Central And West Ogden.	1

PRIMARY CARE: Utah

Service Area Listing

Service Area Name	Degree of shortage group
Blanding/Monticello.	1
County—San Juan	
Parts:	
*Blanding Div.	
*Monticello Div.	
Castle Dale.	1
County—Emery	
Parts:	
*Castle Dale-Huntington Div.	
*Emery-Ferron Div.	
Central And West Ogden.	1
County—Weber	
Parts:	
C.T. 2003-2004	
C.T. 2010-2012	
C.T. 2018-2019	
Delta.	1
County—Millard	
Parts:	
Delta Div.	
Oak City—Scipio Div.	
Enterprise.	1
County—Iron	
Parts:	
*Beryl-Newcastle Div.	
County—Washington	
Parts:	
*Enterprise Div.	
Green River.	1
County—Emery	
Parts:	
*Green River Div.	
County—Grand	
Parts:	
*Thompson Div. (N.W. Pt)	
Hurricane.	1
County—Washington	
Parts:	
*Hurricane Div.	
Kanab/Fredonia (Ut/Az).	2
County—Kane	
County—Kane	
Montezuma Creek.	1
County—San Juan	
Parts:	
*Ojato Div.	
*Red Mesa Div.	
Panguitch.	2
County—Garfield	
Parts:	
Escalante Div.	
Panguitch Div.	
Tropic Div.	
Richfield.	4
County—Piute	
Parts:	
Marysville Div.	
County—Sevier	
Roosevelt.	4
County—Duchesne	
County—Uintah	
Parts:	
*Uintah And Ouray Div.	
Tooele.	2
County—Tooele	
Parts:	
Onaqui Div.	
Tooele-Grantsville Div.	
Vernal.	4
County—Uintah	
Parts:	
*Vernal Div.	
Wendover (Ut/Nv).	1
County—Juab	
Parts:	
*West Juab Div. (W. Pt)	

PRIMARY CARE: Utah—Continued*Service Area Listing*

Service Area Name	Degree of shortage group
County—Tooele Parts: *Dugway-Wendover Div. (W. Pt)	

PRIMARY CARE: Utah*Population Group Listing*

Population Group	Degree of shortage group
Pov Pop—N.W. Salt Lake County—Salt Lake Parts: C.T. 1001 (Pov. Pop.) C.T. 1003.03-1003.04 (Pov. Pop.) C.T. 1004-1006 (Pov. Pop.)	4

PRIMARY CARE: Vermont*County Listing*

County Name	Degree of shortage group
*Addison Service Area: Otter Creek Valley	4
Service Area: Route 100	4
*Caledonia Service Area: Hardwick	1
*Essex Service Area: Island Pond	1
Franklin Service Area: Richford-Enosburg	3
Grand Isle	2
*Lamoille Service Area: Hardwick	1
*Orleans Service Area: Hardwick	1
*Rutland Service Area: Black River Valley	2
Service Area: Otter Creek Valley	4
Service Area: Route 100	4
*Washington Service Area: Hardwick	1
*Windsor Service Area: Black River Valley	2
Service Area: Route 100	4

PRIMARY CARE: Vermont*Service Area Listing*

Service Area Name	Degree of shortage group
Black River Valley County—Rutland Parts: *Mt Holly Twn. County—Windsor Parts: *Cavendish Twn. *Ludlow Twn. *Reading Twn. *Weathersfield Twn.	2

PRIMARY CARE: Vermont—Continued*Service Area Listing*

Service Area Name	Degree of shortage group
Hardwick	1
County—Caledonia Parts: *Hardwick Twn. *Walden Twn.	
County—Lamoille Parts: *Wolcott Twn.	
County—Orleans Parts: *Craftsbury Twn. *Greensboro Twn.	
County—Washington Parts: *Woodbury Twn.	
Island Pond	1
County—Essex Parts: *Averys Grove *Brighton Twn. *Ferdinand Twn. *Lewis Twp. *Norton Twn. *Warners Grant *Warrens Gore	
Otter Creek Valley	4
County—Addison Parts: *Goshen Twn. *Leicester Twn. *Orwell Twn. *Shoreham Twn. *Whiting Twn.	
County—Rutland Parts: *Brandon Twn. *Hubbardton Twn. *Pittsford Twn. *Sudbury Twn.	
Richford-Enosburg	3
County—Franklin Parts: Bakersfield Twn. Berkshire Twn. Enosburg Twn. Fairfield Twn. Franklin Twn. Montgomery Twn. Richford Twn. Sheldon Twn.	
Route 100	4
County—Addison Parts: *Granville Twn. *Hancock Twn.	
County—Rutland Parts: *Pittsfield Twn.	
County—Windsor Parts: *Rochester Twn. *Stockbridge Twn.	

PRIMARY CARE: Virginia*County Listing*

County Name	Degree of shortage group
*Accomack	2
Albermarle/Charlottes. Service Area: Southern Albemarle	1
*Amelia	2
*Augusta/Staunton-Waynesb. Service Area: Craigsville	2
Service Area: South River	2
*Bland	1
Brunswick Service Area: South Hill	4
Buckingham Service Area: Tri-County(Buck/Fluv/Cumb)	1
Campbell/Lynchburg Population Group: Low Income Pop. (Lynchburg)	3
*Caroline	1
Charles City	2
*Charlotte	3
Chesapeake Service Area: Southeast Chesapeake	1
*Craig	1
Cumberland Service Area: Tri-County(Buck/Fluv/Cumb)	1
Dinwiddie/Petersburg Service Area: McKenney	1
*Floyd	2
Fluvanna Service Area: Tri-County(Buck/Fluv/Cumb)	1
*Franklin	4
*King And Queen Service Area: Northern King William	3
*King George	2
*King William Service Area: Northern King William	3
*Louisa	3
*Lunenburg	2
Mecklenburg Service Area: South Hill	4
*Nelson	3
Newport News Service Area: East End	4
Norfolk/Portsmouth Service Area: Norfolk Area 3	1
Service Area: Norfolk Area 2	1
Service Area: Norfolk Area 1	4
*Page	4
*Patrick	4
Pittsylvania/Danville Service Area: Pittsylvania	1
*Richmond	4
*Rockbridge/Buena Vista Service Area: Craigsville	2
Service Area: South River	2
*Russell	4
Scott Service Area: Dungannon	1
*Smyth Service Area: Saltville	1
*Southampton/Franklin Service Area: Berlin-Ivor	1
*Surry	4
*Sussex	3
Washington/Bristol Service Area: Saltville	1
*Westmoreland	3

PRIMARY CARE: Virginia*Service Area Listing*

Service Area Name	Degree of shortage group
Berlin-Ivor.....	1
County—Southampton/Franklin	
Parts:	
*Berlin-Ivor	
Craigsville.....	2
County—Augusta/Staunton-Waynesb.	
Parts:	
*Craigsville Twn.	
*Pastures Dist.	
*Riverhead Dist. (W. 1/2)	
County—Rockbridge/Buena Vista	
Parts:	
*Goshen Twn	
*Walkers Creek Dist. (W. 1/2 Portion)	
Dungannon.....	1
County—Scott	
Parts:	
Dekalb Dist.	
Floyd Dist.	
Johnson Dist.	
East End.....	4
County—Newport News	
Parts:	
C.T. 302-309	
C.T. 313	
McKenney.....	1
County—Dinwiddie/Petersburg	
Parts:	
Sapony Dist.	
Norfolk Area 1.....	4
County—Norfolk/Portsmouth	
Parts:	
C.T. 32-33	
C.T. 60-61	
Norfolk Area 2.....	1
County—Norfolk/Portsmouth	
Parts:	
C.T. 34	
C.T. 35.01-35.02	
Norfolk Area 3.....	1
County—Norfolk/Portsmouth	
Parts:	
C.T. 50	
C.T. 52-53	
Northern King William.....	3
County—King And Queen	
Parts:	
*Newtown Dist.	
*Stevensville Dist.	
County—King William	
Parts:	
*Acquinton Dist.	
*Mangohick Dist.	
Pittsylvania.....	1
County—Pittsylvania/Danville	
Parts:	
Callands Gretna Dist.	
Chatham Dist.	
Staunton River Dist.	
Saltville.....	1
County—Smyth	
Parts:	
North Fork Dist.	
Saltville Dist.	
County—Washington/Bristol	
Parts:	
Jefferson Dist.	
South Hill.....	4
County—Brunswick	
County—Mecklenburg	
South River.....	2
County—Augusta/Staunton-Waynesb.	
Parts:	
*Riverhead Dist. (E. 1/2)	

PRIMARY CARE: Virginia—Continued*Service Area Listing*

Service Area Name	Degree of shortage group
County—Rockbridge/Buena Vista	
Parts:	
*South River Dist.	
*Walkers Creekdist. (E 1/2)	
Southeast Chesapeake.....	1
County—Chesapeake	
Parts:	
C.T. 211.02	
C.T. 212	
Southern Albemarle.....	1
County—Albermarle/Charlottes.	
Parts:	
Scottsville Dist.	
Tri-County(Buck/Fluv/Cumb).....	1
County—Buckingham	
County—Cumberland	
County—Fluvanna	

PRIMARY CARE: Virginia*Population Group Listing*

Population Group	Degree of shortage group
Low Income Pop. (Lynchburg).....	3
County—Campbell/Lynchburg	
Parts:	
Lynchburg (Low Inc.Pop)	

PRIMARY CARE: Washington*County Listing*

County Name	Degree of shortage group
*Adams	
Service Area: Ritzville.....	2
*Chelan	
Population Group: MSFW—Chelan/Douglas.....	1
*Clallam	
Service Area: Forks.....	3
Clark	
Service Area: Yacolt.....	1
*Columbia	
Population Group: MSFW—Walla Walla/Columbia.....	1
*Cowlitz	
Service Area: Toledo/Vader.....	2
*Douglas	
Service Area: Grand Coulee.....	2
Population Group: MSFW—Chelan/Douglas.....	1
*Ferry	
Service Area: Republic.....	2
Population Group: Am. In.—Colville Res.....	1
Franklin	
Population Group: MSFW—Benton/Franklin.....	1
*Grant	
Service Area: Grand Coulee.....	2
Population Group: MSFW—Grant.....	1
*Grays Harbor	
Service Area: Copalis Beach.....	4
Service Area: Neilton.....	1
Service Area: Westport.....	2

PRIMARY CARE: Washington—Continued*County Listing*

County Name	Degree of shortage group
*Jefferson	
Service Area: Forks.....	3
*Klickitat	
Population Group: MSFW—Hood River (Or/Wa).....	1
*Lewis	
Service Area: Pe Ell.....	1
Service Area: Toledo/Vader.....	2
*Lincoln	
Service Area: Grand Coulee.....	2
Service Area: Odessa.....	1
Service Area: Ritzville.....	2
*Okanogan	
Service Area: Grand Coulee.....	2
Population Group: Am. In.—Colville Res.....	1
Population Group: MSFW—Okanogan Co.....	1
*Pacific	
Service Area: Naselle/Grays River.....	1
Service Area: Westport.....	2
*Pend Oreille	
Service Area: Ione/Metaline Falls.....	1
Service Area: Newport/Cusick.....	2
Pierce	
Service Area: Longbranch.....	2
Population Group: Med. Ind. Pop. (Pierce).....	4
Facility: McNeil Island Corr. C.....	1
*Skagit	
Population Group: MSFW—Skagit.....	1
Snohomish	
Service Area: Darrington.....	1
Population Group: Stillaguamish Ind. Tribe.....	1
Spokane	
Service Area: Deer Park.....	3
Population Group: Am. In. (Spokane).....	1
*Stevens	
Service Area: Chewelah.....	1
Service Area: Deer Park.....	3
*Wahkiakum	
Service Area: Naselle/Grays River.....	1
*Walla Walla	
Population Group: MSFW—Walla Walla/Columbia.....	1
Whatcom	
Population Group: MSFW—Whatcom.....	1
*Whitman	
Service Area: Northeast Whitman.....	4
Service Area: Rock Lake/La Crosse.....	1
Yakima	
Population Group: MSFW—Toppenish/Grandview.....	1

PRIMARY CARE: Washington*Service Area Listing*

Service Area Name	Degree of shortage group
Chewelah.....	1
County—Stevens	
Parts:	
*Chewelah CCD	
*Columbia CCD	
*Springdale CCD	
Copalis Beach.....	4

**PRIMARY CARE: Washington—
Continued***Service Area Listing*

Service Area Name	Degree of shortage group
County—Grays Harbor Parts: *North Beach Div.	1
Darrington County—Snohomish Parts: Cascadia Div.	
Deer Park County—Spokane Parts: Deer Park Div. (C.T. 103.01) Deer Park Div. (C.T. 103.02) Deer Park Div. (C.T. 102 N. 1/2)	3
County—Stevens Parts: *Loon Lake Div. (E.D. 203) *Loon Lake Div. (E.D. 204)	
Forks County—Clallam Parts: *Callam Bay-Neah Bay Div. *Forks Div.	3
County—Jefferson Parts: *West End Div.	
Grand Coulee County—Douglas Parts: *Coulee Dam Twn. *Mansfield Twn. *E.D. 256-257 (Waterville Div.) *E.D. 265 (Waterville Div.)	2
County—Grant Parts: *Coulee City Div. (N. 2/3) *Grand Coulee Div.	
County—Lincoln Parts: *Wilbur Div. (W 2/3)	2
County—Okanogan Parts: *Coulee Dam Twn. *Elmer City Twn. *Nespelem Twn. *E.D. 751 (Colville Res. Div.) *E.D. 760-761 (Colville Res. Div.)	
Ione/Metaline Falls County—Pend Oreille Parts: *Ione/Metaline Falls Div.	1
Longbranch County—Pierce Parts: Lower Peninsula Div. (C.T. 726)	
Naselle/Grays River County—Pacific Parts: *Naselle Div.	1
County—Wahkiakum Parts: *Grays River	
Neilton County—Grays Harbor Parts: *Humptulips Div. (N 1/3) *Lake Quinalt Div.	1
Newport/Cusick County—Pend Oreille Parts: *Newport Div.	
Northeast Whitman County—Whitman Parts: *Rosalia Div.	4

**PRIMARY CARE: Washington—
Continued***Service Area Listing*

Service Area Name	Degree of shortage group
*Steploe Div. *Tekoa Div.	1
Odessa County—Lincoln Parts: *Odessa Census Div. (Pt)	
Pe Ell County—Lewis Parts: E.D. 71 (Bunker CCD) E.D. 76 (Bunker CCD)	1
Republic County—Ferry Parts: Curlew CCD Orient Sherman CCD Republic CCD	
Ritzville County—Adams Parts: *Lind-Washtucna Div. *Ritzville Div.	2
County—Lincoln Parts: *E.D. 551 (Bunker CCD)	
Rock Lake/La Crosse County—Whitman Parts: *La Crosse CCD *Rock Lake CCD	1
Toledo/Vader County—Cowlitz Parts: E.D. 757 (Castlerock CCD)	
County—Lewis Parts: Olequa CCD Winlock City E.D. 75 (Boistfort S.1/2) E.D. 82 (Boistfort S.1/2) E.D. 85 (Boistfort S.1/2)	2
Westport County—Grays Harbor Parts: South Shore Div.	
County—Pacific Parts: Raymond Div. Ed 578 & 579	1
Yacolt County—Clark Parts: Yacolt Div. (C.T. 401)	

PRIMARY CARE: Washington*Population Group Listing*

Population Group	Degree of shortage group
Am. In. (Spokane) County—Spokane Parts: Am. In.	1
Am. In.—Colville Res. County—Ferry Parts: Colville Res. Div.	
County—Okanogan Parts: Colville Res. Div.	1

**PRIMARY CARE: Washington—
Continued***Population Group Listing*

Population Group	Degree of shortage group
Med. Ind. Pop. (Pierce) County—Pierce Parts: Med. Ind. Pop.—Pierce	4
MSFW—Benton/Franklin Parts: MSFW County—Franklin Parts: MSFW	
MSFW—Chelan/Douglas County—Chelan Parts: MSFW County—Douglas Parts: MSFW	1
MSFW—Grant County—Grant Parts: MSFW	
MSFW—Okanogan Co. County—Okanogan Parts: MSFW	1
MSFW—Skagit County—Skagit Parts: MSFW	
MSFW—Walla Walla/Columbia County—Columbia Parts: MSFW County—Walla Walla Parts: MSFW	1
MSFW—Whatcom County—Whatcom Parts: MSFW	
MSFW—Hood River (Or/Wa) County—Klickitat Parts: White Salmon Div. (MSFW)	1
MSFW—Toppenish/Grandview Parts: N.W. Benton Div.	
County—Yakima Parts: Mabton Div. S. Yakima Div. Sunnyside Div. Toppenish-Wapato Div.	1
Stillaguamish Ind. Tribe County—Snohomish Parts: C.T. 531-532 C.T. 534	

PRIMARY CARE: Washington*Facility Listing*

Facility Name	Degree of shortage group
McNeil Island Corr. C. County—Pierce	1

PRIMARY CARE: West Virginia*County Listing*

County Name	Degree of shortage group
*Barbour	4
*Berkeley	
Population Group: Pov.Pop./MSFW— Shenandoah	2
*Braxton	2
Cabell	
Service Area: Guyandotte	1
*Calhoun	2
*Clay	1
*Doddridge	
Service Area: Doddridge/Salem	1
*Fayette	
Service Area: New Haven	1
Service Area: Oak Hill	3
*Gilmer	2
*Grant	
Service Area: Moorefield	3
Service Area: Mt Storm	2
*Greenbrier	
Service Area: Greenbrier/Pocahontas	4
*Hampshire	
Service Area: Capon Bridge	1
Hancock	
Service Area: East Liverpool (Oh/Pa/Wv)	3
*Hardy	
Service Area: Baker	3
Service Area: Moorefield	3
*Harrison	
Service Area: Doddridge/Salem	1
Service Area: Shinnston/Fairmont	4
*Jefferson	
Population Group: Pov.Pop./MSFW— Shenandoah	2
Kanawha	
Service Area: Cabin Creek	1
Service Area: Cedar Grove	2
Service Area: Clendenin	2
Service Area: Pocatalico	2
*Lewis	4
*Lincoln	1
*Marion	
Service Area: Shinnston/Fairmont	4
Marshall	
Service Area: Cameron	1
*Mason	
Service Area: Graham/Waggener	1
*McDowell	3
Mineral	
Service Area: Cabin Run	2
*Mingo	
Service Area: Gilbert	3
Service Area: Matewan	1
*Monongalia	
Service Area: Clay/Battelle	2
*Monroe	4
*Morgan	
Service Area: Hancock (Md/Pa/Wv)	2
*Nicholas	
Service Area: Summerville	4
*Pendleton	4
*Pocahontas	
Service Area: Greenbrier/Pocahontas	4

**PRIMARY CARE: West Virginia—
Continued***County Listing*

County Name	Degree of shortage group
*Preston	
Service Area: Rowlesburg/Egdon	1
*Raleigh	
Service Area: Northwest Raleigh	1
Service Area: Shady Spring/Jumping Branch	1
*Randolph	
Facility: Huttonsville Corr. C.	3
*Ritchie	
Service Area: Harrisville	2
*Roane	3
*Summers	
Service Area: Shady Spring/Jumping Branch	1
*Taylor	1
*Upshur	
Service Area: Rock Cave	1
Wayne	2
*Webster	3
*Wetzel	
Service Area: Clay/Battelle	2
*Wirt	2

PRIMARY CARE: West Virginia*Service Area Listing*

Service Area Name	Degree of shortage group
Baker	3
County—Hardy	
Parts:	
*Capon Dist.	
*Lost River Dist.	
Cabin Creek	1
County—Kanawha	
Parts:	
C.T. 121-123	
Cabin Run	2
County—Mineral	
Parts:	
Cabin Run Dist.	
Frankfort Dist.	
Cameron	1
County—Marshall	
Parts:	
Cameron	
Capon Bridge	1
County—Hampshire	
Parts:	
*Bloomery Dist.	
*Capon Dist.	
Cedar Grove	2
County—Kanawha	
Parts:	
C.T. 118-120	
Clay/Battelle	2
County—Monongalia	
Parts:	
*C.T. 114	
County—Wetzel	
Parts:	
*Center Dist.	
*Church Dist.	
*Clay Dist.	
Clendenin	2
County—Kanawha	
Parts:	
C.T. 112	
Doddridge/Salem	1

**PRIMARY CARE: West Virginia—
Continued***Service Area Listing*

Service Area Name	Degree of shortage group
County—Doddridge	
County—Harrison	
Parts:	
*Salem City	
East Liverpool (Oh/Pa/Wv)	3
County—Hancock	
Parts:	
Grant Dist.	
Gilbert	3
County—Mingo	
Parts:	
*Stafford Dist.	
Graham/Waggener	1
County—Mason	
Parts:	
*Graham Dist.	
*Waggener Dist.	
Greenbrier/Pocahontas	4
County—Greenbrier	
Parts:	
Anthony Creek Dist.	
Falling Spring Dist.	
Frankford Dist.	
Williamsburg Dist.	
County—Pocahontas	
Parts:	
Little Levels Dist.	
Guyandotte	1
County—Cabell	
Parts:	
C.T. 2	
Hancock (Md/Pa/Wv)	2
County—Morgan	
Parts:	
*Allen Dist.	
*Bath Dist.	
*Rock Gap Dist.	
*Sleepy Creek Dist.	
Harrisville	2
County—Ritchie	
Parts:	
*Grant Dist.	
*Murphy Dist.	
*Union Dist.	
Matewan	1
County—Mingo	
Parts:	
*Magnolia Dist.	
Moorefield	3
County—Grant	
Parts:	
*Grant Dist.	
*Milroy Dist.	
*Petersburg City	
County—Hardy	
Parts:	
*Moorefield Twn.	
*Moorefield	
*South Fork Dist.	
Mt Storm	2
County—Grant	
Parts:	
*Union Dist.	
New Haven	1
County—Fayette	
Parts:	
*C.T. 210-211	
Northwest Raleigh	1
County—Raleigh	
Parts:	
*C.T. 112	
Oak Hill	3

**PRIMARY CARE: West Virginia—
Continued***Service Area Listing*

Service Area Name	Degree of shortage group
County—Fayette Parts: *C.T. 201-206	2
Pocatalico County—Kanawha Parts: C.T. 108	
Rock Cave County—Upshur Parts: *Banks Dist. *Meade Dist. *Washington Dist. (S 1/2)	1
Rowlesburg/Egdon County—Preston Parts: Reno Dist. Union Dist.	1
Shady Spring/Jumping Branch County—Raleigh Parts: *C.T. 108 (Se 1/2)	
County—Summers Parts: *Bluestone River Dist. (Nw 1/2)	4
Shinnston/Fairmont County—Harrison Parts: *Northern Dist.	
County—Marion Summersville County—Nicholas Parts: *Grant Dist. *Hamilton Dist. *Jefferson Dist. *Kentucky (W 1/2) *Summersville Dist. *Wilderness Dist.	4

PRIMARY CARE: West Virginia*Population Group Listing*

Population Group	Degree of shortage group
Pov.Pop./MSFW—Shenandoah County—Barkeley Parts: MSFW Pov. Pop.	2
County—Jefferson Parts: Pov. Pop.	

**PRIMARY CARE: West Virginia
Facility Listing**

Facility Name	Degree of shortage group
Huttonsville Corr. C. County—Randolph	3

PRIMARY CARE: Wisconsin*County Listing*

County Name	Degree of shortage group
*Adams	2
*Ashland Service Area: Park Falls/Phillips	2
*Bayfield Service Area: Hayward/Radisson	2
Brown Service Area: Pulaski	2
Facility: Wisconsin State Ref.	3
*Buffalo Service Area: Arcadia	4
Service Area: Mondovi	2
*Burnett	2
Calumet	3
*Clark	3
*Dodge Facility: Dodge Corr. I.	2
Facility: Wisconsin Corr. I.	1
*Door Service Area: Sister Bay/Washington Island	2
Douglas Service Area: Minong/Solon Springs	4
Eau Claire Service Area: Osseo	3
*Forest Service Area: Laona	2
*Grant Service Area: Platteville/Cuba City	2
*Green Lake Service Area: Markesan/Kingston	2
*Iowa Service Area: Platteville/Cuba City	2
*Iron Service Area: Ironwood/Hurley (Mi/Wi)	2
Service Area: Park Falls/Phillips	2
*Jackson Service Area: Osseo	3
*Juneau Service Area: Hillsboro	2
Service Area: Mauston/New Lisbon	4
*Kewaunee Service Area: Kewaunee City	4
La Crosse Service Area: Coon Valley/Chaseburg	1
*Lafayette Service Area: Platteville/Cuba City	2
*Langlade Service Area: Elcho	2
Service Area: Mountain/White Lake	1
*Lincoln Service Area: Tomahawk	4
Marathon Service Area: Athens/Edgar	2
Service Area: Tigerton/Biramwood	3
*Marinette Service Area: W. Marinette	2
*Marquette Service Area: Montello	4
*Menominee	1
Milwaukee Service Area: Capitol Drive (Milwaukee)	1
Service Area: Inner City South	3

**PRIMARY CARE: Wisconsin—
Continued***County Listing*

County Name	Degree of shortage group
Service Area: Inner City North (Milwaukee)	2
Service Area: Juneau town	1
Population Group: Med. Ind. Pop.— Inner City West	1
*Monroe Service Area: Hillsboro	2
Service Area: Sparta	4
*Oconto Service Area: Mountain/White Lake	1
Service Area: Oconto Falls	4
Service Area: Pulaski	2
*Oneida Service Area: Elcho	2
Service Area: Tomahawk	4
*Pepin Service Area: Mondovi	2
*Polk Service Area: Frederic/Luck	4
*Price Service Area: Park Falls/Phillips	2
Service Area: Tomahawk	4
*Richland Service Area: Hillsboro	2
*Sauk Service Area: Hillsboro	2
*Sawyer Service Area: Hayward/Radisson	2
Service Area: Park Falls/Phillips	2
*Shawano Service Area: Oconto Falls	4
Service Area: Pulaski	2
Service Area: Tigerton/Biramwood	3
*Trempealeau Service Area: Arcadia	4
Service Area: Galesville/Trempealeau	2
Service Area: Osseo	3
*Vernon Service Area: Coon Valley/Chaseburg	1
Service Area: Genoa	1
Service Area: Hillsboro	2
*Vilas Service Area: Land O'lakes/Presque Isle	2
*Washburn Service Area: Hayward/Radisson	2
Service Area: Minong/Solon Springs	4
Waukesha Facility: Ethan Allen School	3
*Waupaca Service Area: Tigerton/Biramwood	3

PRIMARY CARE: Wisconsin*Service Area Listing*

Service Area Name	Degree of shortage group
Arcadia	4
County—Buffalo Parts: Buffalo Twn. Cross Twn. Fountain City Glencoe Twn. Milton Twn. Montana Twn. Waumandee Twn.	

PRIMARY CARE: Wisconsin— Continued Service Area Listing		PRIMARY CARE: Wisconsin— Continued Service Area Listing		PRIMARY CARE: Wisconsin— Continued Service Area Listing	
Service Area Name	Degree of shortage group	Service Area Name	Degree of shortage group	Service Area Name	Degree of shortage group
County—Trempealeau Parts: Arcadia Twn. Arcadia City Dodge Twn.	2	*Genoa Vil. *Harmony Twn. *Sterling Twn. *Wheatland Twn.	2	C.T. 66-72 C.T. 79-86 C.T. 101-107 C.T. 114-118 C.T. 139-142 C.T. 146-147	3
Athens/Edgar		Hayward/Radisson		Inner City South	
County—Marathon Parts: Athens Vil. Bern Twn. Edgar Vil. Fenwood Vil. Frankfort Twn. Halsey Twn. Johnson Twn. Reitbrock Twn. Wein Twn.	1	County—Bayfield Parts: Barnes Twn. (S. 1/2) Cable Twn. Drummond Twn. (S. 1/2) Grandview Twn. Namakagon Twn.	2	County—Milwaukee Parts: C.T. 155-159 C.T. 162-169 C.T. 174-180	2
Capitol Drive (Milwaukee)		County—Sawyer Parts: Bass Lake Twn. Couderay Twn. Couderay Vil. Edgewater Twn. Exeland Vil. Hayward City Hayward Twn. Hunter Twn. Lenroot Twn. Meadowbrooke Twn. Meteor Twn. Ojibwa Twn. Radisson Vil. Radisson Twn. Round Lake Twn. Sand Lake Twn. Spider Lake Twn. Weirgar Twn. Winter Vil. Winter Twn.		Ironwood/Hurley (Mi/Wi) County—Iron Parts: *Anderson Twn. *Carey Twn. *Gurney Twn. *Hurley City *Kimball Twn. *Knight Twn. *Mercer Twn. *Montreal City *Oma Twn. *Pence Twn. *Saxon Twn. *Tourists	
County—Milwaukee Parts: C.T. 41-43 C.T. 45-47 C.T. 63-65	1	County—Washburn Parts: Bass Lake Twn. Stinnett Twn. Stone Lake Twn.	2	Juneautown	1
Coon Valley/Chaseburg		Hillsboro		County—Milwaukee Parts: C.T. 108 C.T. 110-113	
County—La Crosse Parts: Washington Twn. County—Vernon Parts: Chaseburg Vil. Coon Twn. Coon Valley Vil. Hamburg Twn.	2	County—Juneau Parts: *Union Center Vil. *Wonewoc Vil. *Wonewoc Twn.	2	Kewaunee City	4
Elcho		County—Monroe Parts: *Glendale Twn. *Kendall Vil. *Sheldon Twn. *Wellington Twn.		County—Kewaunee Parts: *Carlton Twn. *Franklin Twn. *Kewaunee City *Montpelier Twn. *Pierce Twn. (S. 1/2) *W. Kewaunee Twn.	
County—Langlade Parts: *Ainsworth Twn. *Elcho Twn. *Parrish Twn. *Summit Twn. *Upham Twn.	4	County—Richland Parts: *Bloom Twn. *Cazenovia Vil. *Henrietta Twn. *Westford Twn. *Yuba Vil.	2	Land O'lakes/Presque Isle County—Vilas Parts: Land O'lake Twn. Presque Isle Twn. Winchester Twn.	2
County—Oneida Parts: *Enterprise Twn. *Schoepke Twn.		County—Sauk Parts: *Woodland Twn.		Laona	2
Frederic/Luck	2	County—Vernon Parts: *Forest Twn. *Greenwood Twn. *Hillsboro City *Hillsboro Twn. *Ontario Vil. *Union Twn. *Whitestown Twn.	2	County—Forest Parts: *Armstrong Creek Twn. *Blackwell Twn. *Caswell Twn. *Freedom Twn. *Laona Twn. *Ross Twn. *Wabeno Twn.	
County—Polk Parts: Bone Lake Twn. Clam Fall Twn. Frederic Vil. Georgetown Twn. Laketown Twn. Lorain Twn. Luck Twn. Luck Vil. McKinley Twn. West Sweden Twn.		Inner City North (Milwaukee)		Markesan/Kingston	2
Galesville/Trempealeau	1	County—Milwaukee Parts: C.T. 44	2	County—Green Lake Parts: Kingston City Kingston Twn. Mackford Twn. Manchester Twn. Markesan City Marquette City Marquette Twn.	
County—Trempealeau Parts: Caledonia Twn. Ettrick City Ettrick Twn. Gale Twn. Galesville City Trempealeau Vil. Trempealeau Twn.				Mauston/New Lisbon	4
Genoa	1			County—Juneau Parts: Camp Douglas Vil. Clearfield Twn. Cutler Twn. Elroy City	
County—Vernon Parts: *Bergen Twn. *De Soto Vil. *Genoa Twn.					

PRIMARY CARE: Wisconsin—
Continued

Service Area Listing

Service Area Name	Degree of shortage group
Fountain Twn. Germantown Twn. Hustler Vil. Kildare Twn. Kingston Twn. Lemonweir Twn. Lindina Twn. Lisbon Twn. Lyndon Station Vil. Marion Twn. Mauston City Necedah Vil. Necedah Twn. New Lisbon City Orange Twn. Plymouth Twn. Seven Mile Creek Twn. Summit Twn. Minong/Solon Springs.....	4
County—Douglas Parts: Bennett Twn. Dairyland Twn. Gordon Twn. Highland Twn. Oakland Twn. (S. 1/2) Solon Springs Vil. Solon Springs Twn. Wascott Twn. County—Washburn Parts: Brooklyn Twn. Chicog Twn. Frog Creek Twn. Gull Lake Twn. Minong Vil. Minong Twn.	2
Mondovi.....	2
County—Buffalo Parts: *Alma City *Alma Twn. *Belvidere Twn. *Buffalo City *Canton Twn. *Cochrane Vil. *Dover Twn. *Gilmanton Twn. *Lincoln Twn. *Modena Twn. *Mondovi City *Mondovi Twn. *Naples Twn. County—Pepin Parts: *Albany Twn.	4
Montello.....	4
County—Marquette Parts: Crystal Lake Twn. Harris Twn. Mecan Twn. Montello City Montello Twn. Neshkoro Twn. Neshkoro Vil. Newton Twn. Oxford Twn. Oxford Vil. Packwaukee Twn. Shields Twn. Springfield Twn. Westfield Vil. Westfield Twn.	

PRIMARY CARE: Wisconsin—
Continued

Service Area Listing

Service Area Name	Degree of shortage group
Mountain/White Lake.....	1
County—Langlade Parts: Evergreen Twn. Langlade Twn. White Lake Vil. Wolf River Twn. County—Oconto Parts: Armstrong Twn. Bagley Twn. Brazeau Twn. Breed Twn. Doty Twn. Lakewood Twn. Riverview Twn. Townsend Twn. Oconto Falls.....	4
County—Oconto Parts: *Abrams Twn. (W 1/2) *Gillett City *Gillett Twn. *How Twn. *Lena Twn. *Lena Vil. *Maple Valley Twn. *Morgan Twn. *Oconto Falls City *Oconto Falls Twn. *Spruce Twn. *Stiles Twn. (W 1/2) *Suring Vil. *Underhill Twn. County—Shawano Parts: *Green Valley Twn.	3
Osseo.....	3
County—Eau Claire Parts: Augusta Twn. Bridge Creek Twn. Clear Creek Twn. Fairchild Twn. Fairchild Vil. Otter Creek Twn. County—Jackson Parts: *Cleveland Twn. *Garfield Twn. *Northfield Twn. County—Trempealeau Parts: *Hale Twn. *Osseo City *Strum Twn. *Sumner Twn. *Unity Twn.	2
Park Falls/Phillips.....	2
County—Ashland Parts: Agenda Twn. Butternut Vil. Chippewa Twn. Gordon Twn. Jacobs Twn. Peeksville Twn. Shanagolden Twn. County—Iron Parts: Sherman County—Price Parts: Catawba Twn.	

PRIMARY CARE: Wisconsin—
Continued

Service Area Listing

Service Area Name	Degree of shortage group
Eisenstein Twn. Elk Twn. Emery Twn. Fifield Twn. Flambeau Twn. Georgetown Twn. Hackett Twn. Harmony Twn. Kennan Twn. Kennan Vil. Lake Twn. Ogema Twn. Park Falls City Phillips City Prentice Twn. (West 1/2) Prentice Vil. Worcester Twn. County—Sawyer Parts: Draper Twn. Platteville/Cuba City.....	2
County—Grant Parts: Clifton Twn. Cuba City City Dickeyville Vil. Ellenboro Twn. Harrison Twn. Hazel Green Twn. Hazel Green Vil. Lima Twn. Livingston Vil. Paris Twn. Plateville Twn. Platteville City Smelser Twn. County—Iowa Parts: Mifflin Twn. Rowey Vil. County—Lafayette Parts: Belmont Vil. Belmont Twn. Benton Vil. Benton Twn. Elk Grove Twn. New Diggings Twn. Pulaski.....	2
County—Brown Parts: Pittsfield Twn. Pulaski Vil. County—Oconto Parts: Chase Twn. County—Shawano Parts: Angelica Twn. Maple Grove Twn. Sister Bay/Washington Island.....	2
County—Door Parts: Baileys Harbor Twn. Ephraim Vil. Gibraltar Twn. Liberty Grove Twn. Sister Bay Vil. Washington Island Twn. Sparta.....	4
County—Monroe Parts: Angelo Twn. Cashon Vil.	

PRIMARY CARE: Wisconsin—
Continued

Service Area Listing

Service Area Name	Degree of shortage group
Jefferson Twn.	
Lafayette Twn.	
Leon Twn.	
Little Falls Twn.	
Melvina Vill.	
New Lyme Twn.	
Norwalk Vil.	
Portland Twn.	
Ridgeville Twn.	
Sparta City	
Sparta Twn.	
Wells Twn.	
Tigerton/Biramwood	3
County—Marathon	
Parts:	
Elderon Vil.	
Elderon Twn.	
Franzen Twn.	
Hatley Vil.	
Norrie Twn.	
Plover Twn.	
County—Shawano	
Parts:	
Almon Twn.	
Aniwa Twn.	
Aniwa Vil.	
Biramwood Twn.	
Biramwood Vil.	
Bowler Vil.	
Eland Vil.	
Fairbanks Twn.	
Germania Twn.	
Grant Twn. (W 1/2)	
Hutchins Twn.	
Matoon Vil.	
Morris Twn.	
Tigerton Vil.	
Wittenberg Vil.	
Wittenberg Twn.	
County—Waupaca	
Parts:	
Big Falls Vil.	
Harrison Twn.	
Wyoming Twn.	
Tomahawk	4
County—Lincoln	
Parts:	
*Bradley Twn.	
*Harrison Twn.	
*King Twn.	
*Skanawan Twn.	
*Somo Twn.	
*Tomahawk Twn.	
*Tomahawk City	
*Wilson Twn.	
County—Oneida	
Parts:	
*Little Rice Twn.	
*Lynne Twn.	
*Nokonius Twn.	
County—Price	
Parts:	
*Hill Twn.	
*Knox Twn.	
*Prentice Twn. (Eastern 1/2)	
*Spirit Twn.	
W. Marinette	2
County—Marinette	
Parts:	
*Amberg Twn.	
*Athelstane Twn.	
*Beaver Twn.	
*Coleman Vil.	
*Crivitz Vill.	

PRIMARY CARE: Wisconsin—
Continued

Service Area Listing

Service Area Name	Degree of shortage group
*Lake Twn.	
*Middle Inlet Twn.	
*Pound Twn.	
*Pound Vil.	
*Silver Cliff Twn.	
*Stephenson Twn.	
*Wausaukee Vil.	
*Wausaukee Twn.	

PRIMARY CARE: Wisconsin

Population Group Listing

Population Group	Degree of shortage group
Med. Ind. Pop.—Inner City West County—Milwaukee Parts: C.T. 62 C.T. 87-90 C.T. 96-100 C.T. 119-123 C.T. 133-138 C.T. 148-149	1

PRIMARY CARE: Wisconsin

Facility Listing

Facility Name	Degree of shortage group
Dodge Corr. I..... County—Dodge	2
Ethan Allen School..... County—Waukesha	3
Wisconsin Corr. I..... County—Dodge	1
Wisconsin State Ref..... County—Brown	3

PRIMARY CARE: Wyoming

County Listing

County Name	Degree of shortage group
*Albany	
Service Area: Rock River.....	1
*Big Horn	
Service Area: Greybull.....	2
*Campbell	
Service Area: Wright.....	2
*Converse	
Service Area: Douglas.....	4
*Crook	
Service Area: Hulett.....	1
Service Area: Moorcroft.....	1
*Fremont	
Service Area: Dubois.....	1
Service Area: Jeffrey City.....	1

PRIMARY CARE: Wyoming—Continued

County Listing

County Name	Degree of shortage group
Population Group: Arapahoe/Shoshone Indians.....	1
*Hot Springs	
Population Group: Arapahoe/Shoshone Indians.....	1
*Lincoln	
Service Area: Kemmerer/Cokeville	3
Natrona	
Service Area: Midwest/Edgerton	1
*Niobrara.....	1
*Park	
Service Area: Gardiner/Mammoth Hot Springs.....	1
*Sublette	
Service Area: Big Piney/Marbleton	3
Service Area: Pinedale/Boulder.....	4
*Sweetwater	
Service Area: Rawlins	2
Service Area: Rock Springs.....	3
*Uinta	
Service Area: Lyman	1
*Weston.....	4

PRIMARY CARE: Wyoming

Service Area Listing

Service Area Name	Degree of shortage group
Big Piney/Marbleton.....	3
County—Sublette	
Parts:	
*Big Piney Div.	
Douglas.....	4
County—Converse	
Parts:	
*Douglas Div.	
Dubois.....	1
County—Fremont	
Parts:	
*Dubois Div.	
Gardiner/Mammoth Hot Springs.....	1
County—Park	
Parts:	
*Yellowstone Nat'L Park Div.	
Greybull.....	2
County—Big Horn	
Parts:	
*Big Horn Central Div.	
*Big Horn South Div.	
Hulett.....	1
County—Crook	
Parts:	
*Hulett Div.	
Jeffrey City.....	1
County—Fremont	
Parts:	
*Sweetwater Div.	
Kemmerer/Cokeville.....	3
County—Lincoln	
Parts:	
*Kemmerer East Div.	
*Kemmerer West Div.	
Lyman.....	1
County—Uinta	
Parts:	
*Bridger Valley Div.	
Midwest/Edgerton.....	1
County—Natrona	
Parts:	
E.D. 1675 (Edgertown)	

PRIMARY CARE: Wyoming—Continued*Service Area Listing*

Service Area Name	Degree of shortage group
E.D. 1676.77 (Edgertown) E.D. 1678.81 (Edgertown)	
Moorcroft.....	1
County—Crook	
Parts:	
*Moorcroft Div.	
Pinedale/Boulder.....	4
County—Sublette	
Parts:	
*Boulder Div.	
*Pinedale Div.	
Rawlins.....	2
County—Sweetwater	
Parts:	
*Wamsutter Div.	
Rock River.....	1
County—Albany	
Parts:	
*Rock River Div.	
Rock Springs.....	3
County—Sweetwater	
Parts:	
*Green River North Div.	
*Green River South Div.	
*Rock Spring North Div.	
*Rock Spring South Div.	
Wright.....	2
County—Campbell	
Parts:	
*Gillette South CCD	

PRIMARY CARE: Wyoming*Population Group Listing*

Population Group	Degree of shortage group
Arapahoe/Shoshone Indians.....	1
County—Fremont	
Parts:	
*Wind River	
County—Hot Springs	
Parts:	
*Wind River	

PRIMARY CARE: American Samoa*County Listing*

County Name	Degree of shortage group
*Eastern Dist. (Tutuila) Service Area: Terr. Of American Samoa.....	3
*Manu'A Islands Service Area: Terr. Of American Samoa.....	3
*Rose Island Service Area: Terr. Of American Samoa.....	3
*Swains Island Service Area: Terr. Of American Samoa.....	3
*Western Dist. (Tutuila) Service Area: Terr. Of American Samoa.....	3

PRIMARY CARE: American Samoa*Service Area Listing*

Service Area Name	Degree of shortage group
Terr. Of American Samoa.....	3
County—Eastern Dist. (Tutuila)	
County—Manu'A Islands	
County—Rose Island	
County—Swains Island	
County—Western Dist. (Tutuila)	

PRIMARY CARE:*County Listing*

County Name	Degree of shortage group
*Kosrae State.....	1
*Pohnpei State.....	1
*Truk State.....	1
*Yap State.....	1

PRIMARY CARE: Guam*County Listing*

County Name	Degree of shortage group
*Guam.....	1

PRIMARY CARE:*County Listing*

County Name	Degree of shortage group
*Republic Of Marshall Is.....	1

PRIMARY CARE: N. Mariana Islands*County Listing*

County Name	Degree of shortage group
*Commonwealth Of N. Mariana Is.....	1

PRIMARY CARE:*County Listing*

County Name	Degree of shortage group
*Republic Of Palau.....	1

PRIMARY CARE: Puerto Rico*County Listing*

County Name	Degree of shortage group
*Adjuntas.....	2
*Aguada.....	4
*Agua Buenas.....	3
*Anasco.....	3
*Arecibo.....	
Population Group: Pov. Pop.—Arecibo.....	2
*Arroyo.....	
Population Group: Pov. Pop.—Arroyo.....	1
*Barceloneta.....	
Population Group: Pov. Pop.—Barceloneta.....	4
*Barranquitas.....	
Population Group: Pov. Pop.—Barranquitas.....	1
*Cabo Rojo.....	
Population Group: Pov. Pop.—Cabo Rojo.....	3
*Camuy.....	2
*Canovanas.....	2
*Cayey.....	
Population Group: Pov. Pop.—Cayey.....	1
*Ceiba.....	
Population Group: Pov. Pop.—Ceiba.....	2
*Ciales.....	4
*Cidra.....	2
*Coamo.....	
Population Group: Pov. Pop.—Coamo.....	1
*Comerio.....	3
*Corozal.....	2
*Dorado.....	2
*Fajardo.....	
Population Group: Pov. Pop.—Fajardo.....	1
*Florida.....	2
*Guanica.....	
Population Group: Pov. Pop.—Guanica.....	1
*Guayama.....	
Population Group: Pov. Pop.—Guayama.....	1
*Guayanilla.....	
Population Group: Pov. Pop.—Guayanilla.....	1
*Gurabo.....	1
*Hatillo.....	1
*Hormigueros.....	1
*Humacao.....	
Population Group: Pov. Pop.—Humacao.....	2
*Isabela.....	3
*Jayuya.....	
Population Group: Pov. Pop.—Jayuya.....	1
*Juana Diaz.....	2
*Juncos.....	1
*Lajas.....	1
*Lares.....	1
*Las Marias.....	2
*Las Piedras.....	1
*Loiza.....	3
*Luquillo.....	1
*Manati.....	
Population Group: Pov. Pop.—Manati.....	1
*Maricao.....	
Population Group: Pov. Pop.—Maricao.....	2
*Maunabo.....	1
*Mayaguez.....	
Population Group: Pov. Pop.—Mayaguez.....	1
*Moca.....	
Population Group: Pov. Pop.—Moca.....	1
*Morovis.....	2
*Naguabo.....	
Population Group: Pov. Pop.—Naguabo.....	2
*Naranjito.....	2
*Orocovis.....	1
*Patillas.....	4

PRIMARY CARE: Puerto Rico—
Continued*County Listing*

County Name	Degree of shortage group
*Ponce Population Group: Pov. Pop.—Ponce.....	2
*Quebradillas.....	2
*Rincon.....	4
*Rio Grande Population Group: Pov. Pop.—Rio Grande.....	1
*Sabana Grande.....	3
*Salinas Population Group: Pov. Pop.—Salinas.....	1
*San German Population Group: Pov. Pop.—San German.....	2
*San Juan Service Area: Barrio Obrero.....	4
*San Lorenzo Population Group: Pov. Pop.—San Lorenzo.....	1
*San Sebastian Population Group: Pov. Pop.—San Sebastian.....	1
*Santa Isabel.....	1
*Toa Alta.....	1
*Utahdo Population Group: Pov. Pop.—Utahdo.....	1
*Vega Alta Population Group: Pov. Pop.—Vega Alta.....	1
*Vega Baja Population Group: Pov. Pop.—Vega Baja.....	1
*Villalba.....	2
*Yabucoa Population Group: Pov. Pop.—Yabucoa.....	1
*Yauco Population Group: Pov. Pop.—Yauco.....	1

PRIMARY CARE: Puerto Rico*Service Area Listing*

Service Area Name	Degree of shortage group
Barrio Obrero.....	4
County—San Juan Parts: *C.T. 29-39 *C.T. 44-45	

PRIMARY CARE: Puerto Rico*Population Group Listing*

Population Group	Degree of shortage group
Pov. Pop.—Arecibo.....	2
County—Arecibo.....	
Pov. Pop.—Arroyo.....	1
County—Arroyo.....	
Pov. Pop.—Barceloneta.....	4
County—Barceloneta.....	
Pov. Pop.—Barranquitas.....	1
County—Barranquitas.....	
Pov. Pop.—Cabo Rojo.....	3

PRIMARY CARE: Puerto Rico—
Continued*Population Group Listing*

Population Group	Degree of shortage group
County—Cabo Rojo.....	
Pov. Pop.—Cayey.....	1
County—Cayey.....	
Pov. Pop.—Ceiba.....	2
County—Ceiba.....	
Pov. Pop.—Coamo.....	1
County—Coamo.....	
Pov. Pop.—Fajardo.....	1
County—Fajardo.....	
Pov. Pop.—Guanica.....	1
County—Guanica.....	
Pov. Pop.—Guayama.....	1
County—Guayama.....	
Pov. Pop.—Guayanilla.....	1
County—Guayanilla.....	
Pov. Pop.—Humacao.....	2
County—Humacao.....	
Pov. Pop.—Jayuya.....	1
County—Jayuya.....	
Pov. Pop.—Manati.....	1
County—Manati.....	
Pov. Pop.—Maricao.....	2
County—Maricao.....	
Pov. Pop.—Mayaguez.....	1
County—Mayaguez.....	
Pov. Pop.—Moca.....	1
County—Moca.....	
Pov. Pop.—Naguabo.....	2
County—Naguabo.....	
Pov. Pop.—Ponce.....	2
County—Ponce.....	
Pov. Pop.—Rio Grande.....	1
County—Rio Grande.....	
Pov. Pop.—Salinas.....	1
County—Salinas.....	
Pov. Pop.—San German.....	2
County—San German.....	
Pov. Pop.—San Lorenzo.....	1
County—San Lorenzo.....	
Pov. Pop.—San Sebastian.....	1
County—San Sebastian.....	
Pov. Pop.—Utahdo.....	1
County—Utahdo.....	
Pov. Pop.—Vega Alta.....	1
County—Vega Alta.....	
Pov. Pop.—Vega Baja.....	1
County—Vega Baja.....	
Pov. Pop.—Yabucoa.....	1
County—Yabucoa.....	
Pov. Pop.—Yauco.....	1
County—Yauco.....	

PRIMARY CARE: Virgin Islands*County Listing*

County Name	Degree of shortage group
*St. Croix Service Area: Fredericksted.....	4
*St. Thomas Service Area: East End St. Thomas.....	1

PRIMARY CARE: Virgin Islands*Service Area Listing*

Service Area Name	Degree of shortage group
East End St. Thomas.....	1
County—St. Thomas Parts: *East End *Southside *Tutu	
Fredericksted.....	4
County—St. Croix Parts: Fredericksted Northwest Southwest	

**WITHDRAWALS FROM LIST OF
PRIMARY MEDICAL CARE HMSAs****PRIMARY CARE: Alabama***County Listing*

Clay
De Kalb
Elmore
Etowah
Fayette
Marion
Talladega

**WITHDRAWALS FROM LIST OF
PRIMARY MEDICAL CARE HMSAs****PRIMARY CARE: Alabama***Service Area Listing*

Bay Minette
County—Baldwin
Parts:
Bay Minette CCD
Black Belt Community
Gainesville CCD
Livingston CCD
Panola Geiger CCD

**WITHDRAWALS FROM LIST OF
PRIMARY MEDICAL CARE HMSAs****PRIMARY CARE: Arizona***Service Area Listing*

Benson
County—Cochise
Parts:
Benson CCD
St. Johns
County—Apache
St. Johns Div.

**WITHDRAWALS FROM LIST OF
PRIMARY MEDICAL CARE HMSAs****PRIMARY CARE: Arkansas***County Listing*

Conway
Crawford
Franklin

**WITHDRAWALS FROM LIST OF
PRIMARY MEDICAL CARE HMSAs****PRIMARY CARE: California***Service Area Listing*

Orland
County—Glenn
Parts:
Orland CCD
Quincy
County—Plumas
Quincy CCD
West Oakland
County—Alameda
C.T. 4014-4017
C.T. 4017-4019
C.T. 4019-4027

**WITHDRAWALS FROM LIST OF
PRIMARY MEDICAL CARE HMSAs****PRIMARY CARE: Colorado***County Listing*

Kiowa
Sedgwick
Yuma

**WITHDRAWALS FROM LIST OF
PRIMARY MEDICAL CARE HMSAs****PRIMARY CARE: Colorado***Service Area Listing*

Flagler
County—Kit Carson
Parts:
Flagler Div.
Julesburg (Co/Nb)
County—Sedgwick

**WITHDRAWALS FROM LIST OF
PRIMARY MEDICAL CARE HMSAs****PRIMARY CARE: Connecticut***Population Group Listing*

Pov. Pop.—S.W. Stamford
County—Fairfield
Parts:
C.T. 201
C.T. 214-215
C.T. 217
C.T. 222-223
Poverty Pop.—Central Waterbury
County—New Haven
C.T. 3501-3505
C.T. 3508
C.T. 3512
C.T. 3514

**PRIMARY CARE: Connecticut—
Continued***Population Group Listing*

Poverty Pop.—Middletown
County—Middlesex
C.T. 5411-5422
Poverty Pop.—N.E. Windham
County—Windham
Brooklyn Twn.
Canterbury Twn.
Eastford Twn.
Killingly Twn.
Plainfield Twn.
Pomfret Twn.
Putnam Twn.
Sterling Twn.
Thompson Twn.
Woodstock Twn.

**WITHDRAWALS FROM LIST OF
PRIMARY MEDICAL CARE HMSAs****PRIMARY CARE: Florida***Population Group Listing*

Pov. Pop.—Franklin Co.
County—Franklin
Parts:
Pov. Pop.

**WITHDRAWALS FROM LIST OF
PRIMARY MEDICAL CARE HMSAs****PRIMARY CARE: Georgia***County Listing*

Bryan
Dawson
Early
McIntosh
White

**WITHDRAWALS FROM LIST OF
PRIMARY MEDICAL CARE HMSAs****PRIMARY CARE: Idaho***County Listing*

Clearwater

**WITHDRAWALS FROM LIST OF
PRIMARY MEDICAL CARE HMSAs****PRIMARY CARE: Illinois***County Listing*

Calhoun

**WITHDRAWALS FROM LIST OF
PRIMARY MEDICAL CARE HMSAs****PRIMARY CARE: Illinois***Service Area Listing*

E. Chicago Heights
County—Cook
Parts:
C.T. 8297 (E. Chicago Heights)
Hardin
County—Greene
Woodville Twp. (West 1/2)
County—Jersey
Quarry Twp.
Richwood Twp.
Rosedale Twp.
Robbins Vil.
County—Cook
C.T. 8243 (E. Chicago Heights)
S.E. Peoria
County—Peoria
C.T. 1-15
Salem
County—Marion
Alma Twp.
Beacham Twp.
Foster Twp.
Haines Twp.
Iuka Twp.
Kimmunity Twp.
Omega Twp.
Romine Twp.
Salem Twp.
Stevenson Twp.
Tonti Twp.

**WITHDRAWALS FROM LIST OF
PRIMARY MEDICAL CARE HMSAs****PRIMARY CARE: Indiana***County Listing*

Clay
Decatur
Fayette
Martin
Ripley
Steuben
Switzerland

**WITHDRAWALS FROM LIST OF
PRIMARY MEDICAL CARE HMSAs****PRIMARY CARE: Louisiana***County Listing*

Bossier
St Bernard
St Charles
St John The Baptist
West Baton Rouge

**WITHDRAWALS FROM LIST OF
PRIMARY MEDICAL CARE HMSAs****PRIMARY CARE: Louisiana***Service Area Listing*

Northeastern St Tammany
County—St Tammany
Parts:
C.T. 401.01-401.02
C.T. 407.01-407.02

PRIMARY CARE: Louisiana—Continued*Service Area Listing*

West Union
County—Union
Ward 9
Ward 4
Ward 3

**WITHDRAWALS FROM LIST OF
PRIMARY MEDICAL CARE HMSAs****PRIMARY CARE: Maine***Service Area Listing*

Lubec
County—Washington
Parts:
Dennysville Twn.
E. Central Wash. Unorg.
Lubec Twn.
Pit. #14
Whiting Twn.
Mars Hill
County—Aroostook
Blaine Twn.
Bridgewater Twn.
E. Pit.
Mars Hills Twn.
Westfield Twn.
Penobscot Bay
County—Knox
Matinicus Island
Vinalhaven Island
Rangeley
County—Franklin
Coplin Pit.
Dallas Pit.
Eustis Twn.
Madrid Twn.
N. Franklin (Unorg.)
Rangeley Pit.
Rangeley Twn.
Sandy River Pit.
County—Oxford
Lincoln Pit.
Magalloway Pit.
Unorg.—N. Oxford

**WITHDRAWALS FROM LIST OF
PRIMARY MEDICAL CARE HMSAs****PRIMARY CARE: Maryland***County Listing*

Queen Annes

**WITHDRAWALS FROM LIST OF
PRIMARY MEDICAL CARE HMSAs****PRIMARY CARE: Massachusetts***Service Area Listing*

Hough's Neck/Germantown (Quincy)
County—Norfolk
Parts:
C.T. 4178
Jamaica Plain
County—Suffolk
C.T. 1202-1207
North End Boston
County—Suffolk
C.T. 301-302
C.T. 304-305

**PRIMARY CARE: Massachusetts—
Continued***Service Area Listing*

Taunton
County—Bristol
Berkley Twn.
Dighton Twn.
Raynham Twn.
Rehoboth Twn.
Taunton City

**WITHDRAWALS FROM LIST OF
PRIMARY MEDICAL CARE HMSAs****PRIMARY CARE: Massachusetts***Population Group Listing*

Portuguese Pop.—Hudson
County—Middlesex
Parts:
Hudson (Portuguese Pop.)

**WITHDRAWALS FROM LIST OF
PRIMARY MEDICAL CARE HMSAs****PRIMARY CARE: Michigan***County Listing*

Baraga
Hillsdale

**WITHDRAWALS FROM LIST OF
PRIMARY MEDICAL CARE HMSAs****PRIMARY CARE: Michigan***Service Area Listing*

Brown City
County—Lapeer
Parts:
Burnside Twp.
County—Sanilac
Brown City
Elk Twp.
Flynn Twp.
Maple Valley Twp.
Speaker Twp.
De Tour
County—Chippewa
De Tour Twp.
De Tour Vil.
Drummond Twp.
Raber Twp.
Gwinn
County—Marquette
Ewing Twp.
Forsyth Twp.
Turbin Twp.
Wells Twp.
Kaleva
County—Manistee
Dickson Twp.
Maple Grove Twp.
Marilla Twp.
Norman Twp.
Springfield Twp.
Kinross/Rudyard
County—Chippewa
Bay Mills Twp.
Chippewa Twp.
Hulbert Twp.
Kinross Twp.
Rudyard Twp.

PRIMARY CARE: Michigan—Continued*Service Area Listing*

Superior Twp.
Trout Lake Twp.
Whitefish Twp.
L'Anse
County—Houghton
Laird Twp.
Lexington/Croswell
County—Sanilac
Buel Twp.
Croswell City
Fremont Twp.
Lexington Twp.
Worth Twp.
Port Austin
County—Huron
Dwight Twp.
Gore Twp.
Hume Twp.
Huron Twp.
Lake Twp.
Pointe Aux Barques Twp.
Port Austin Twp.

**WITHDRAWALS FROM LIST OF
PRIMARY MEDICAL CARE HMSAs****PRIMARY CARE: Minnesota***Service Area Listing*

Baudette
County—Beltrami
Parts:
Shotley Twp.
Shotley Brook—Unorg.
Upper Red Lake N 1/2—U
Washkish Twp.
County—Koochiching
N.W. Koochiching—Unorg.
County—Lake Of The Woods
Baudette City
Beltrami Forest—Unorg.
Rainey River—Unorg. E.
Williams City

**WITHDRAWALS FROM LIST OF
PRIMARY MEDICAL CARE HMSAs****PRIMARY CARE: Mississippi***County Listing*

Clay
Grenada

**WITHDRAWALS FROM LIST OF
PRIMARY MEDICAL CARE HMSAs****PRIMARY CARE: Missouri***County Listing*

Christian
Monroe
Putnam
Shelby
St Clair
Warren

**WITHDRAWALS FROM LIST OF
PRIMARY MEDICAL CARE HMSAs****PRIMARY CARE: Missouri***Service Area Listing*

Lincoln
County—Benton
Parts:
Cole Twp.
White Twp.
Williams Twp.
Southern Gasconade
County—Gasconade
Boeuf Twp.
Boulevard Twp.
Bourbois Twp.
Brush Creek Twp.
Canaan Twp.
Clay Twp.
Third Creek Twp.

**WITHDRAWALS FROM LIST OF
PRIMARY MEDICAL CARE HMSAs****PRIMARY CARE: Montana***County Listing*

Prairie

**WITHDRAWALS FROM LIST OF
PRIMARY MEDICAL CARE HMSAs****PRIMARY CARE: Nebraska***County Listing*

Boyd
Butler
Clay
Deuel

**WITHDRAWALS FROM LIST OF
PRIMARY MEDICAL CARE HMSAs****PRIMARY CARE: Nebraska***Service Area Listing*

Arnold

County—Custer
Parts:
Arnold Twp.
Cliff Twp.
Delight Twp.
Elin Twp.
Grant Twp.
Hayes Twp.
Triumph Twp.
Wayne Twp.
County—Lincoln
Antelope
Garfield
County—Logan
Gandy
Logan

**WITHDRAWALS FROM LIST OF
PRIMARY MEDICAL CARE HMSAs****PRIMARY CARE: Nevada***County Listing*

Humboldt

**WITHDRAWALS FROM LIST OF
PRIMARY MEDICAL CARE HMSAs****PRIMARY CARE: Nevada***Service Area Listing*

Fernley/Silver Springs
County—Lyon
Parts:
Canal Div.
Dayton Div. (N. Pt.)

**WITHDRAWALS FROM LIST OF
PRIMARY MEDICAL CARE HMSAs****PRIMARY CARE: New Hampshire***Service Area Listing*

Upper Connecticut Valley
County—Coos
Parts:
Atkinson-Gilman Academy Grant
Clarksville Twn.
Colebrook Twn.
Columbia Twn.
Dix Grant
Dixville Twn.
Errol Twn.
Millsfield Twp.
Odell Twn.
Pittsburg Twn.
Second College Grant
Stewarttown Twn.
Stratford Twn.
Wentworth Location
Wilton/Milford
County—Hillsboro
Amherst Twp. (W. 1/3)
Lyndeborough Twn.
Milford Twn.
Mt. Vernon Twn.
Wilton Twn.

**WITHDRAWALS FROM LIST OF
PRIMARY MEDICAL CARE HMSAs****PRIMARY CARE: New Mexico***County Listing*

Curry

**WITHDRAWALS FROM LIST OF
PRIMARY MEDICAL CARE HMSAs****PRIMARY CARE: New Mexico***Service Area Listing*

Northern Gallup
County—McKinley
Parts:
E.D. 99.03-99.05
Thoreau

**PRIMARY CARE: New Mexico—
Continued***Service Area Listing*

County—McKinley
Thoreau CDP

**WITHDRAWALS FROM LIST OF
PRIMARY MEDICAL CARE HMSAs****PRIMARY CARE: New York***Service Area Listing*

Coney Isl/Brighton Beach/W. Brighton
County—Kings
Parts:
C.T. 326
C.T. 328
C.T. 330
C.T. 336
C.T. 340
C.T. 342
C.T. 348.01-348.02
C.T. 350
C.T. 352
C.T. 360.01-360.02
C.T. 362
C.T. 364
East Bronx
County—Bronx
C.T. 44
C.T. 48
C.T. 50
C.T. 52
C.T. 54
C.T. 56
C.T. 62
C.T. 64
C.T. 66
C.T. 68
C.T. 70
C.T. 214
Hamilton/Sherburne
County—Chenango
Columbus Twn.
Otselic Twn.
Sherburne Twn.
Smyrna Twn.
County—Madison
Brookfield Twn.
Eaton Twn.
Georgetown Twn.
Hamilton Twn.
Lebanon Twn.
Madison Twn.
County—Orleans
Sangerfield Twn.
Naples/South Bristol
County—Ontario
Naples Twn.
South Bristol Twn.
North Rockland
County—Rockland
C.T. 101-107
Washington Heights—Inwood
County—New York
C.T. 243.01
C.T. 245
C.T. 247
C.T. 249
C.T. 251
C.T. 253
C.T. 255
C.T. 261
C.T. 263
C.T. 265
C.T. 267
C.T. 269
C.T. 271
C.T. 277

PRIMARY CARE: New York—Continued*Service Area Listing*

C.T. 279
C.T. 281
C.T. 283
C.T. 285
C.T. 287
C.T. 289
C.T. 291
C.T. 293
C.T. 295
C.T. 303
C.T. 307
C.T. 311

**WITHDRAWALS FROM LIST OF
PRIMARY MEDICAL CARE HMSAs****PRIMARY CARE: New York***Population Group Listing*

Seneca Nation—Allegany Reservation
County—Cattaraugus
Parts:
Allegany Res.

**WITHDRAWALS FROM LIST OF
PRIMARY MEDICAL CARE HMSAs****PRIMARY CARE: New York***Facility Listing*

Gouverneur Diag. & Treatment Ctr
County—New York

**WITHDRAWALS FROM LIST OF
PRIMARY MEDICAL CARE HMSAs****PRIMARY CARE: North Carolina***County Listing*

Ashe
Graham
Granville
Perquimans
Richmond
Stokes

**WITHDRAWALS FROM LIST OF
PRIMARY MEDICAL CARE HMSAs****PRIMARY CARE: North Carolina***Service Area Listing*

Bat Cave
County—Buncombe
Parts:
Broad River Twp.
Fairview Twp.
County—Henderson
Clear Creek Twp.
Edneyville Twp.
Hatteras
County—Dare
Hatteras Twp.
Kennekeet Twp.
Holly Ridge
County—Onslow
C.T. 4

**PRIMARY CARE: North Carolina—
Continued***Service Area Listing*

County—Pender
Holly Twp.
Topsail Twp.
Lincoln
County—Durham
C.T. 8.01–8.02
C.T. 9
C.T. 10.01
C.T. 11
C.T. 12.01–12.02
C.T. 13.01–13.02
C.T. 14
Manns Harbor
County—Dare
Croatan Twp.
East Lake Twp.
Nags Head Twp.
Onslow
County—Onslow
C.T. 1–3
C.T. 5–25
Tipton Hill
County—Mitchell
Bradshaw Twp.
Harrell Twp.
Poplar Twp.
Red Hill Twp.
County—Yancey
Brush Creek Twp.
Green Mountain Twp.
Jacks Creek Twp.
Ramseytown Twp.
Western Pender
County—Pender
Bergan Twp.
Canetuck Twp.
Caswell Twp.
Columbia Twp.
Grady Twp.
Long Creek Twp.
Rocky Point Twp.
Union Twp.

**WITHDRAWALS FROM LIST OF
PRIMARY MEDICAL CARE HMSAs****PRIMARY CARE: North Dakota***County Listing*

McHenry
Morton
Slope

**WITHDRAWALS FROM LIST OF
PRIMARY MEDICAL CARE HMSAs****PRIMARY CARE: Ohio***County Listing*

Paulding
Putnam

**WITHDRAWALS FROM LIST OF
PRIMARY MEDICAL CARE HMSAs****PRIMARY CARE: Ohio***Service Area Listing*

Willard
County—Crawford
Parts:
Auburn Twp. (N. 1/2)
County—Huron
Fairfield Twp.
Greenfield Twp.
Greenwich Twp.
New Haven Twp.
Norwich Twp.
Richmond Twp.
Ripley Twp.
Willard City
County—Richland
Blooming Grove Twp.
Butler Twp.
Cass Twp. (N 1/2)
Plymouth Twp. (N 1/2)
County—Seneca
Reed Twp.
Venice Twp.

**WITHDRAWALS FROM LIST OF
PRIMARY MEDICAL CARE HMSAs****PRIMARY CARE: Oregon***Service Area Listing*

Blodgett/Eddyville
County—Benton
Parts:
North Benton Div. (W 1/4)
County—Lincoln
Eddyville Div (E 1/2)
Brownsville
County—Linn
Brownsville CCD

**WITHDRAWALS FROM LIST OF
PRIMARY MEDICAL CARE HMSAs****PRIMARY CARE: Pennsylvania***Service Area Listing*

Armstrong-Clarion
County—Armstrong
Parts:
Brady's Bend Twp.
Madison Twp.
Perry Twp.
Pine Twp.
Sugar Creek Twp.
Washington Twp.
County—Clarion
Brady Twp.
East Brady Twp.
Madison Twp.
Carbondale
County—Lackawanna
Archbald Boro.
Carbondale City
Carbondale Twp.
Fell Twp.
Greenfield Twp.
Jermyn Boro.
Mayfield Boro.
Scott Twp.
Vandling Boro.
County—Susquehanna
Clifford Twp.
Forest City Boro.

**PRIMARY CARE: Pennsylvania—
Continued***Service Area Listing*

Union Dale Boro.
County—Wayne
Canaan Twp.
Clinton Twp.
Lake Twp.
South Canaan Twp.
Waymart Boro.

Delta
County—York
Chanceford Twp.
Cross Road Boro.
Delta Boro.
East Hopewell Twp.
Fawn Grove Boro.
Fawn Twp.
Felton Boro.
Lower Chanceford Twp.
Peachbottom Twp.

East Crawford
County—Crawford
Athens Twp.
Bloomfield Twp.
Centerville Boro.
Richmond Twp.
Rockdale Twp.
Rome Twp.
Sparta Twp.
Spartansburg Boro.
Steuben Twp.
Townville Boro.

Forest-Clarion
County—Clarion
Farmington Twp.
Knox Twp.
Washington Twp.

County—Elk
Millstone Twp.

County—Forest
Barnett Twp.
Green Twp.
Howe Twp.
Jenks Twp.
Kingsley Twp.

Hill Dist./Terrance Vil.
County—Allegheny
C.T. 304-305
C.T. 401
C.T. 501-504
C.T. 508-509

Kidder
County—Carbon
East Side Boro.
Kidder Twp.
Lausanne Twp.
Lehigh Twp.
Penn Forest Twp.

County—Luzerne
Buck Twp.
Foster Twp. (E. Portion)
White Haven Boro.

County—Monroe
Coolbough Twp.
Tobyhanna Twp.
Tunkhannock Twp.

Mantua/Beimont
County—Philadelphia
C.T. 90-91
C.T. 106-110

Montrose (Area 14)
County—Susquehanna
Auburn Twp.
Bridgewater Twp.
Brooklyn Twp.
Dimack Twp.
Forest Lake Twp.
Franklin Twp.
Harford Twp.
Hop Bottom Boro.
Jessup Twp.

**PRIMARY CARE: Pennsylvania—
Continued***Service Area Listing*

Lathrop Twp.
Lenox Twp.
Liberty Twp.
Montrose Boro.
Rush Twp.
Silver Lake Twp.
Springville Twp.

Moscow
County—Lackawanna
C.T. 118
C.T. 129

North Indiana
County—Indiana
Cherry Tree Boro.
Clymer Boro.
East Mahoning Twp.
Glen Campbell Boro.
Grant Twp.
Green Twp.
Marion C. Boro.
Montgomery Twp.
Pine Twp.
Plumville Boro.
South Mahoning Twp.
Washington Twp.

Northern Lebanon Co.
County—Lebanon
Bethel Twp.
Cold Spring Twp.
East Hanover Twp.
Jonestown Boro.
Swatara Twp.
Union Twp.

Penns Valley
County—Centre
Center Hall Boro.
Greg Twp.
Haines Twp.
Miles Twp.
Millheim Boro.
Penn Twp.
Potter Twp.

Renovo
County—Clinton
Chapman Twp.
East Keating Twp.
Grugan Twp.
Ledy Twp.
Noyes Twp.
Renovo Boro.
South Renovo Boro.

Reynoldsville
County—Jefferson
Knox Twp. (E. 1/4)
Pine Creek Twp. (E. 1/2)
Reynoldsville Boro.
Washington Twp. (S. 1/2)
Winslow Twp.

Southern Indiana
County—Indiana
Armagh Boro.
Black Lick Twp.
Blairsville Boro.
Burrell Twp.
Conemaugh Twp.
E. Wheatfield Twp.
Jacksonville Boro.
Saltsburg Boro.
W. Wheatfield Twp.
Young Twp.

Uniontown
County—Fayette
Fairchance Boro.
Franklin Twp.
Georges Twp.
Luzerne Twp.
Menallen Twp.
North Union Twp.
Redstone Twp.

**PRIMARY CARE: Pennsylvania—
Continued***Service Area Listing*

Smithfield Boro.
South Union Twp.
Uniontown City

**WITHDRAWALS FROM LIST OF
PRIMARY MEDICAL CARE HMSAs****PRIMARY CARE: Rhode Island***Facility Listing*

Med/Max Securities I. (Cranston)
County—Providence

**WITHDRAWALS FROM LIST OF
PRIMARY MEDICAL CARE HMSAs****PRIMARY CARE: South Dakota***County Listing*

Day
Mellette
Tripp

**WITHDRAWALS FROM LIST OF
PRIMARY MEDICAL CARE HMSAs****PRIMARY CARE: South Dakota***Service Area Listing*

Winner/White River
County—Tripp

**WITHDRAWALS FROM LIST OF
PRIMARY MEDICAL CARE HMSAs****PRIMARY CARE: Tennessee***County Listing*

Cheatham
Fannin
Smith
Trousedale
Warren

**WITHDRAWALS FROM LIST OF
PRIMARY MEDICAL CARE HMSAs****PRIMARY CARE: Tennessee***Service Area Listing*

Bluebridge/Copperhill (Tn/Ga)
County—Fannin
County—Macon
Highland Ridge
County—Robertson
Parts:
Orinda CCD
County—Sumner
Portland CCD
Westmoreland CCD
White House CCD (N. 1/2)

**WITHDRAWALS FROM LIST OF
PRIMARY MEDICAL CARE HMSAs****PRIMARY CARE: Texas***County Listing*

Blanco
Montgomery
Reeves
Swisher
Waller

**WITHDRAWALS FROM LIST OF
PRIMARY MEDICAL CARE HMSAs****PRIMARY CARE: Texas***Service Area Listing*

Fair Park
County—Dallas
Parts:
C.T. 23
C.T. 25-26
C.T. 27.01-27.02
C.T. 28
C.T. 93.03-93.04

**WITHDRAWALS FROM LIST OF
PRIMARY MEDICAL CARE HMSAs****PRIMARY CARE: Utah***Service Area Listing*

Fillmore
County—Millard
Parts:
Fillmore City
Holden Twn.
Scipio Twn.
Unorg.—Scipio Div.

**WITHDRAWALS FROM LIST OF
PRIMARY MEDICAL CARE HMSAs****PRIMARY CARE: Virginia***County Listing*

Greene
Isle Of Wight
Lee
New Kent

**WITHDRAWALS FROM LIST OF
PRIMARY MEDICAL CARE HMSAs****PRIMARY CARE: Virginia***Service Area Listing*

Nathalie
County—Halifax/S. Boston
Parts:
Meadville Dist.
Staunton Dist.
Pungo
County—Virginia Beach
C.T. 464 (Pungo)
C.T. 466 (Pungo)
Trout Dale/Independence
County—Grayson/Galax
Elk Creek Dist.
Wilson Creek Dist.
West Point
County—King And Queen
Buena Vista Dist.
County—King William
West Point Dist.
County—New Kent

**WITHDRAWALS FROM LIST OF
PRIMARY MEDICAL CARE HMSAs****PRIMARY CARE: West Virginia***County Listing*

Jackson
Pleasants

**WITHDRAWALS FROM LIST OF
PRIMARY MEDICAL CARE HMSAs****PRIMARY CARE: West Virginia***Service Area Listing*

Grant
County—Cabell
Parts:
Grant Dist.
Gulf
County—Raleigh
C.T. 1 (Trap Hill)
C.T. 111 (Trap Hill)
Teays Valley
County—Putnam
Curry Dist.
Scott Dist.
Teays Valley Dist.

**WITHDRAWALS FROM LIST OF
PRIMARY MEDICAL CARE HMSAs****PRIMARY CARE: Wisconsin***County Listing*

Taylor

**WITHDRAWALS FROM LIST OF
PRIMARY MEDICAL CARE HMSAs****PRIMARY CARE: Wisconsin***Service Area Listing*

Amherst/Iola
County—Portage
Parts:
Amherst Twn.
Amherst Junction Vil.
Amherst Vil.
Nelsonville Vil.
County—Waupaca
Hevelia Twn.
Iola Twn.
Iola Vil.
Scandinavia Twn. (Pt.)
St. Lawrence Twn. (Pt.)
East Silver Spring
County—Milwaukee
C.T. 10-12
C.T. 18-21

**WITHDRAWALS FROM LIST OF
PRIMARY MEDICAL CARE HMSAs****PRIMARY CARE: Wisconsin***Population Group Listing*

Am. Ind.—Milwaukee
County—Milwaukee
Parts:
Am. In.

**WITHDRAWALS FROM LIST OF
PRIMARY MEDICAL CARE HMSAs****PRIMARY CARE: Wisconsin***Facility Listing*

Kettle Morain Corr. I.
County—Sheboygan
Lincoln Hills School
County—Lincoln

**WITHDRAWALS FROM LIST OF
PRIMARY MEDICAL CARE HMSAs****PRIMARY CARE: Wyoming***Service Area Listing*

Afton
County—Lincoln
Parts:
Afton Div.

[FR Doc. 90-14239 Filed 6-28-90; 8:45 am]

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Best Buy Federal Register

Friday
June 29, 1990

Part VIII

National Aeronautics and Space Administration

48 CFR Part 1804 et al.

Acquisition Regulation; Miscellaneous
Amendments to NASA FAR Supplement;
Final Rule

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1804, 1805, 1806, 1807, 1809, 1813, 1815, 1822, 1825, 1827, 1835, 1842, 1846, 1852, 1853, and 1870

[NASA FAR Supplement Directive 89-4]

RIN 2700-AA92, 2700-AB04

Acquisition Regulation; Miscellaneous Amendments to NASA FAR Supplement

AGENCY: Office of Procurement, Procurement Policy Division, NASA.

ACTION: Final rule.

SUMMARY: This document amends the NASA Federal Acquisition Regulation Supplement (NFS) to reflect the final version of an interim rule which added a solicitation provision and a contract clause implementing a program to enhance quality and productivity in contract performance. This document also makes a number of miscellaneous changes dealing with NASA internal or administrative matters.

EFFECTIVE DATE: June 30, 1990.

FOR FURTHER INFORMATION CONTACT: W.A. Greene, Chief, Regulations Development Branch, Procurement Policy Division (Code HP), Office of Procurement, NASA Headquarters, Washington, DC 20546, Telephone: (202) 453-8923.

SUPPLEMENTARY INFORMATION:

Background

The only significant item involves the rule for Quality and Productivity Improvement Plans. An interim rule with request for comments was published on this topic on March 14, 1990 (55 FR 9446). Comments received suggested (1) rearranging the rule to simplify location in the Uniform Contract Format and (2) rescinding the rule in its entirety and rewriting it. The first suggestion has been adopted; however, the second cannot be accommodated, as this rule to elicit innovative approaches to improving quality and productivity in NASA programs is in direct response to several NASA-industry conferences where industry officials expressed a desire to develop and try new, innovative approaches to improving quality and productivity. The rule is an effort by NASA to allow offerors to put forth such new approaches and, if successful, to have that success recognized through the negotiation and award of fee. Therefore, NASA believes that the merits favor continued application of the rule in its present form. Future improvements can be made if operational experience indicates a

need. The NASA FAR Supplement, of which this rule is a part, is available in its entirety on a subscription basis from the Superintendent of Documents, Government Printing Office, Washington, DC 20402. Cite GPO Subscription Stock Number 933-003-00000-1. It is not distributed to the public, either in whole or in part, directly by NASA.

Impact

The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain agency procurement regulations from Executive Order 12291. The regulations herein are in the exempted category. NASA certifies that this regulation will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). The regulation imposes no new burdens on the public within the ambit of the Paperwork Reduction Act, as implemented at 5 CFR part 1320, nor does it significantly alter any reporting or recordkeeping requirements currently approved under OMB control number 2700-0042.

List of Subjects in 48 CFR Parts 1804, 1805, 1806, 1807, 1809, 1813, 1822, 1825, 1827, 1835, 1842, 1846, 1852, 1853, and 1870

Government procurement.

S. J. Evans,

Assistant Administrator for Procurement.

1. The authority citation for 48 CFR parts 1804, 1805, 1806, 1807, 1809, 1813, 1815, 1825, 1837, 1835, 1845, 1852, 1853, and 1870 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

PART 1804—ADMINISTRATIVE MATTERS

1804.671-1 [Amended]

2. In 1804.671-1(a)(5), the abbreviation "EDPS" is revised to read "FPDS."

PART 1805—PUBLICIZING CONTRACT ACTIONS

3. Subpart 1805.3 is amended as set forth below:

1805.303-70 [Amended]

a. In 1805.303-70(a)(1) introductory text, the words "public affairs office" are revised to read "Public Affairs Office."

b. In 1805.303-71, in paragraphs (a)(2), (b)(1)(ii), and (b)(2), "(Code LM)" is revised to read "(Code PM)," and "Congressional Relations Office (Code XC)" is revised to read "Office of Legislative Affairs (Code LC)."

c. In 1805.303-71(b)(1) introductory text, "Headquarters Contracts and Grants Division" is revised to read "Headquarters Acquisition Division."

PART 1806—COMPETITION REQUIREMENTS

1806.302-770 [Amended]

4. In 1806.302-770, paragraph (c), "NASA Headquarters, Congressional Relations Office (Code XC)" is revised to read "NASA Headquarters, Office of Legislative Affairs (Code LC)."

PART 1807—ACQUISITION PLANNING

1807.103 [Amended]

5. In 1807.103, in paragraphs (a)(1)(i)(A), (b)(1)(i)(A)(2), and (b)(1)(ii)(A)(2), "Headquarters Contracts and Grants Division" is revised to read "Headquarters Acquisition Division."

1807.7102 [Amended]

6. In 1807.7102, paragraph (b)(1)(ii), "Headquarters Contracts and Grants Division" is revised to read "Headquarters Acquisition Division."

PART 1809—CONTRACTOR QUALIFICATIONS

7. Subpart 1809.1 is amended as set forth below:

1809.106-70 [Amended]

a. In 1809.106-70, paragraph (d)(1), "20.G" is revised to read "20.H" in both places where it appears.

b. In 1809.106-70, paragraph (j)(2)(iv) introductory text, "VI" is revised to read "V."

§ 1809.404 [Amended]

8-9. In 1809.404, paragraph (b), the words "Prgram Programs" are revised to read "Procurement Programs."

PART 1815—CONTRACTING BY NEGOTIATION

1815.506 [Amended]

10. In 1815.506, paragraph (a)(3), the phrase "Contracts and Grants Division (Code HW)" is revised to read "Headquarters Acquisition Division (Code HW)."

1815.807-71 [Amended]

11. In 1815.807-71, the phrase "Headquarters Contracts and Grants Division" is revised to read "Headquarters Acquisition Division."

PART 1822—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

1822.1306 [Amended]

12. In 1822.1306, "(Code U)" is revised to read "(Code E)."

PART 1825—FOREIGN ACQUISITION

1825.7004 and 1825.7005 [Amended]

13. In 1825.7004 and 1825.7005(a), the phrase "Headquarters Contracts and Grants Division" is revised to read "Headquarters Acquisition Division."

PART 1827—PATENTS, DATA, AND COPYRIGHTS

14. Part 1827 is amended as set forth below:

1827.373 [Amended]

a. In 1827.373, paragraph (a)(2) is revised to read as follows:

1827.373 Contract clauses and solicitation provisions.

(a) * * *

(2) When the clause at FAR 52.227-11 is included in a solicitation or contract it shall be modified as set forth at 1852.227-11.

b. In subpart 1827.4, 1827.409 (e), (f), and (g) are revised to read as follows:

1827.409 Solicitation provisions and contract clauses.

(e) In accordance with 1827.404(e)(1), the contracting officer shall add subparagraph (3) as set forth in 1852.227-14 to paragraph (d) of the clause at FAR 52.227-14, Rights in Data—General, except in solicitations and contracts for basic or applied research with universities or colleges.

(f) In accordance with 1827.405(a)(1), the contracting officer shall add paragraph (e) as set forth in 1852.227-19(a) to the clause at FAR 52.227-19, Commercial Computer Software—Restricted Rights, when it is contemplated that updates, correction notices, consultation information, and other similar items of information relating to commercial computer software delivered under a purchase order or contract are available and their receipt can be facilitated by signing a vendor supplied agreement, registration forms, or cards and returning them directly to the vendor.

(g) In accordance with 1827.405(a)(2), the contracting officer shall add paragraph (f) as set forth at 1852.227-19(b) to the clause at FAR 52.227-19, Commercial Computer Software—Restricted Rights, when portions of a contractor's standard commercial license or lease agreement consistent

with the clause, Federal laws, standard industry practices, and the FAR are to be incorporated into the purchase order or contract.

PART 1835—RESEARCH AND DEVELOPMENT CONTRACTING

1835.016-70 [Amended]

15. In 1835.016-70, paragraph (b)(3), "Headquarters Grants and Contracts Division" is revised to read "Headquarters Acquisition Division."

PART 1842—CONTRACT ADMINISTRATION

1842.7002 [Amended]

16. In 1842.7002, paragraph designator "(a)" is removed, and paragraph (b) is removed in its entirety.

PART 1846—QUALITY ASSURANCE

17. Subpart 1846.4 is revised to read as follows:

Subpart 1846.4—Government Contract Quality Assurance

Sec.

1846.470 Solicitation provision and contract clauses.

1846.470-1 Solicitation provision.

1846.470-2 Contract clauses.

Subpart 1846.4—Government Contract Quality Assurance

1846.470 Solicitation provision and contract clauses.

1846.470-1 Solicitation provision.

The contracting officer shall consider inserting in solicitations the provision at 1852.246-74, Requirement for Quality and Productivity Improvement (Q/PI) Plan, when in the judgment of the contracting officer and the program manager, a Q/PI plan would be meaningful and appropriate, and the estimated cost of the contract will be more than \$2.5 million, annually. The proposed Q/PI plan shall be evaluated under Other Considerations. Any fee associated with a Q/PI plan shall not be considered as an amount over and above the total fee negotiated for the contract and shall not, when combined with all other price or fee considerations, exceed the limitations prescribed in FAR 15.903(d)(1).

1846.470-2 Contract clauses.

(a) The contracting officer may insert a clause substantially as stated at 1852.246-71, Government Contract Quality Assurance Functions, in solicitations and contracts. Insert the items involving quality assurance, the applicable functions (e.g., preliminary inspection, final inspection, acceptance),

and the place(s) of performance appropriate for the particular procurement. See FAR 46.401.

(b) The contracting officer shall insert the clause at 1852.246-75, Quality and Productivity Improvement Plan, in all solicitations containing the provision at 1852.246-74, Requirement for Quality and Productivity Improvement Plan, and in contracts resulting therefrom.

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

18. Part 1852 is amended as set forth below:

1852.208-81 [Amended]

a. In paragraph (c) of the clause, the word "fed" is revised to read "feed."

b. Sections 1852.227-11, 1852.227-14, and 1852.227-19 are added as set forth below:

1852.227-11 Patent Rights—Retention by the Contractor (Short Form).

As prescribed at 1827.373(a), modify the clause at FAR 52.227-11 by adding the following subparagraph (5) to paragraph (f) of the basic clause. In addition, use the following subparagraph (2) in lieu of subparagraph (g)(2) of the basic clause:

(5) The contractor shall provide the contracting officer the following:

(i) A listing every 12 months (or such longer period as the contracting officer may specify) from the date of the contract, of all subject inventions required to be disclosed during the period.

(ii) A final report prior to closeout of the contract listing all subject inventions or certifying that there were none.

(iii) Upon request, the filing date, serial number and title, a copy of the patent application, and patent number and issue date for any subject invention in any country in which the contractor has applied for patents.

(iv) An irrevocable power to inspect and make copies of the patent application file, by the Government, when a Federal Government employee is a coinventor.

(End of addition)

(2) The contractor shall include the clause in the NASA FAR Supplement at 1852.227-70, New Technology, suitably modified to identify the parties, in all subcontracts, regardless of tier, for experimental, developmental, research, design, or engineering work to be performed by other than a small business firm or nonprofit organization.

(End of substitution)

1852.227-14 Rights in Data—General.

As prescribed in 1827.409(e), add the following subparagraph (3) to paragraph (d) of the basic clause at FAR 52.227-14:

(3) The Contractor agrees not to establish claims to copyright, publish or release to others any computer software first produced in the performance of this contract without the Contracting Officer's prior written permission.

(End of addition)

1852.227-19 Commercial Computer Software—Restricted Rights.

(a) As prescribed in 1827.409(f), add the following paragraph (e) to the basic clause at FAR 52.227-19:

(e) For the purposes of receiving updates, correction notices, consultation information, or other similar information regarding any computer software delivered under this contract/purchase order, the NASA Contracting Officer or the NASA Contract Technical Representative/User may sign any vendor supplied agreements, registration forms, or cards and return them directly to the vendor; however, such signing shall not alter any of the rights or obligations of either NASA or the vendor set forth in this clause or elsewhere in this contract/purchase order.

(End of addition)

(b) As prescribed in 1827.409(g), add the following paragraph (f) to the basic clause at FAR 52.227-19:

(f) Subject to paragraphs (a) through (e) above, those applicable portions of the Contractor's standard commercial license or lease agreement pertaining to any computer software delivered under this purchase order/contract that are consistent with Federal laws, standard industry practices, and the Federal Acquisition Regulation (FAR) shall be incorporated into and made part of this purchase order/contract.

(End of addition)

1852.227-86 [Amended]

c. In 1852.227-86, paragraph (b) of the clause, the phrase "NASA Contractor Technical Representative/User" is revised to read "NASA Contracting Officer's Technical Representative/User"; and the parenthetical expression "(End of clause)" is added at the end of the clause.

1852.232-81 [Amended]

d. In 1852.232-81, in the clause "Contract Funding," the date "(MAR 1989)" is revised to read "(JUNE 1990)," and paragraph (a) is revised to read as set forth below:

1852.232-81 Contract Funding.

(a) For purposes of payment of cost, exclusive of fee, in accordance with the Limitation of Funds clause, the total amount allotted by the Government to this contract is \$_____. This allotment is for [Insert applicable item number(s), task(s), or work description] _____ and covers the following estimated period of performance: _____

* * * * *

1852.242-71 [Amended]

e. In 1852.242-71, Alternate I of the clause is removed in its entirety.

1852.246-71 [Amended]

f. In 1852.246-71, the citation "1846.470" is revised to read "1846.470-2(a)."

g. Section 1852.246-74 is revised and 1852.246-75 is added to read as set forth below:

1852.246-74 Requirement for Quality and Productivity Improvement Plan.

As prescribed in 1846.470-1, insert the following provision:

Requirement for Quality and Productivity Improvement Plan (June 1990)

The offeror shall submit with its proposal a Quality and Productivity Improvement (Q/PI) plan. The plan should address only effort directly related to this solicitation. It should include areas of focus for improvement; Q/PI goals, schedules and assessment techniques; discuss how the offeror will create an environment within its organization conducive to continuous quality improvement; and discuss the offeror's active or proposed involvement, if any, in the Q/PI programs of subcontractors. The offeror shall identify all costs associated with the major elements of the proposed plan. The offeror may propose incentives to reward quality and productivity improvements made under

the contract. If proposed as incentives that are distinct from other contract fees or prices, the offeror must be able to demonstrate to the contracting officer's satisfaction that the contractor's performance under the Q/PI plan can be discretely measured and its value is commensurate with the proposed cost or incentive. At the sole discretion of the contracting officer any consideration for the proposed Q/PI plan may be included in the total fee or price of the contract. If the contract will otherwise contain award fee provisions, the offeror shall include in its proposal appropriate award fee criteria designed to encourage and reward the offeror's Q/PI effort. The contractor shall comply with the approved plan during performance of the contract.

(End of provision)

1852.246-75 Quality and Productivity Improvement Plan.

As prescribed in 1846.470-2(b), insert the following clause:

Quality and Productivity Improvement Plan (June 1990)

During contract performance, the contractor shall comply with the Quality and Productivity Improvement Plan submitted pursuant to provision 1852.246-74. Requirement for Quality and Productivity Improvement Plan, as approved by the Contracting Officer.

(End of clause)

PART 53—FORMS

1853.215-2 [Amended]

19. In 1853.215-2, the citation "1815.905" is revised to read "1815.970."

PART 1870—NASA SUPPLEMENTARY REGULATIONS

1870.303 [Amended]

20. In Appendix I to 1870.303, Chapter 3, section 304, paragraph 2.g. is redesignated as paragraph 2.h., and a new paragraph 2.g. is added to read as follows: "g. Quality and productivity improvement plan."

[FR Doc. 90-14861 Filed 6-28-90; 8:45 am]
BILLING CODE 7510-01-M

Registered Federal Trade

Friday
June 29, 1990

Part IX

Environmental Protection Agency

40 CFR Part 35

Comprehensive Construction Grant
Regulation Revision; Interim Rule With
Request for Comments

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 35

[FRL-3702-8]

Comprehensive Construction Grant Regulation Revision

AGENCY: Environmental Protection Agency.

ACTION: Interim rule with request for comments.

SUMMARY: The Water Quality Act of 1987 (Pub. L. 100-4) amended the Clean Water Act (Pub. L. 92-500) by extending the authorization of several provisions in the title II construction grant program and by adding new provisions to respond to program experience. The 1987 amendments also authorized EPA to treat Indian Tribes as States for purposes of administering the title II program.

With today's action, the Environmental Protection Agency is revising the construction grant regulations at 40 CFR part 35, subpart I and the State delegation regulations at 40 CFR part 35, subpart J, to implement the 1987 Amendments to title II and the new Indian tribe delegation program of section 518 of the Clean Water Act. The Agency is making two other revisions to the construction grant regulations to respond to issues that have emerged since the regulations were last significantly amended on February 17, 1984 (49 FR 6224).

DATES: *Effective:* This interim rule is effective June 29, 1990. *Comments:* Comments must be received on or before August 28, 1990.

ADDRESSES: Comments may be mailed to Geoffrey Cooper, Office of Municipal Pollution Control (WH-546), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Geoffrey Cooper (202/382-2287).

SUPPLEMENTARY INFORMATION:

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- I. Authority
- II. Class deviation from the construction grant regulations
 - A. Low income user charges
 - B. Design/build projects
 - C. Rotating biological contractors
 - D. Comments on the class deviation
- III. New Clean Water Act provisions and revisions to the construction grants regulations
 - A. Federal share
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 - E. Reserves

- IV. Other revisions to the construction grants regulations
 - A. Project performance
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- V. Treatment of Indian Tribes as States
- VI. Regulation development process
 - A. Executive Order 12291
 - B. Regulatory Flexibility Act
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I. Authority

The Water Quality Act of 1987 (the Amendments, Pub. L. 100-4) amended provisions in the title II construction grant program of the Clean Water Act (the Act, Pub. L. 92-500) and added new provisions to respond to program experience. The amendments also authorized EPA to treat Indian Tribes as States for purposes of the title II program.

These revisions to the Environmental Protection Agency's construction grant regulations are designed to implement the 1987 Amendments and to respond to issues that have emerged since the regulations were amended significantly on February 17, 1984 (49 FR 6224). The revisions will affect various sections of the Agency's construction grant regulations at 40 CFR part 35, subpart I and the State delegation regulations at 40 CFR part 35, subpart J. Because grant related rules are not subject to the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553(a)), this rule is promulgated as an interim final rule. However, the Agency is providing a sixty-day period for comment on the rule.

II. Class deviation from the construction grant regulations

In order to implement three provisions of the 1987 Amendments before these revisions to 40 CFR part 35 became effective, EPA published a class deviation from the construction grant regulations in the Federal Register on May 4, 1988 (53 FR 15820), with an invitation for the public to comment. The three components of the class deviation, and their treatment in the revised rule, are discussed below.

A. Low Income User Charges

The class deviation permitted recipients of grants awarded after March 1, 1973 to establish lower rates for low-income residential users, provided that (1) the delegated State official or EPA Regional Administrator approves the system, (2) the cost reductions for the low income user class are proportionally absorbed by all other classes of users and (3) the system is adopted after the recipient has provided for public notice and a hearing. Revenues for the operation,

maintenance and equipment replacement costs of the facilities cannot be reduced by the establishment of a lower user charge.

The Agency's user charge regulations at 40 CFR 35.2140 contain a new paragraph (i) that describes the requirements for adoption of an optional low-income user charge rate. These requirements are derived from the class deviation.

B. Design/Build Projects

New section 203(f) of the Act provides that an applicant may receive a grant that will enable it to award a single contract for both the preparation of plans and specifications and for the erection of certain small treatment works with estimated costs of \$8 million or less.

The class deviation waived the requirement for grantees to submit plans and specifications to the Agency for approval and set forth in detail the statutory requirements for awarding design/build grants.

Design/build assistance is administered in two phases. To provide assistance in initiating the project, a grant is awarded to cover the costs of supplementing the facilities plan to prepare a pre-bid package upon which design/build contractors can bid. After the project has been bid, the grant is amended (increased) to cover the costs of designing and building.

In the revised title II regulations, design/build procedures are designated as Step 7 grants, which is the designation used for the procedure in the Grants Information and Control System. A new section 40 CFR 35.2036 is added and sets forth the terms and conditions for design/build project grants, including the types of treatment works eligible for the grants and bidding and procurement requirements.

C. Rotating Biological Contractors

Revised section 202(a)(3) authorizes the Agency to award grants for up to 100 percent of the costs of modifying or replacing (M/R) rotating biological contractors (RBCs) that have failed to meet design performance specifications. The Agency approved a deviation from the allowable costs provisions of 40 CFR part 35, subpart I to permit grants for 100 percent of the costs of modifying or replacing failed RBCs provided that the failure caused a significant increase in capital or operation and maintenance costs and was not due to negligence. The Agency determined that costs incurred for RBC modification or replacement before award of the grant are not allowable.

The criteria established in the class deviation and that must be met before a grant can be awarded for RBC modification or replacement are set forth in a new 40 CFR 35.2035. Appendix A of 40 CFR part 35, subpart I, concerning allowable costs, is also revised to permit 100 percent M/R grants for RBCs.

D. Comments on the Class Deviation

Six respondents commented on the class deviation. Most comments concerned two aspects of the deviation to permit grants for replacement or modification of failed RBCs. Four respondents argued that by denying grants for reimbursement costs borne by communities that proceeded to remedy RBC failures on their own, the Agency was penalizing communities that acted in a timely manner and in good faith before grants became available. The Agency concluded that RBC modification and replacement projects, like other construction grant projects that are completed without a grant, are not eligible for reimbursement under the Act. This conclusion rests on the Agency's longstanding interpretation, reflected in 40 CFR 35.2118, that the Act, particularly section 206, authorizes reimbursement funding only in narrowly prescribed circumstances. Nothing in section 202(a)(3) or its legislative history indicates that Congress intended for EPA to change its interpretation of the Act for RBC grants. Further, section 203(a) of the Act requires EPA approval of proposed projects before the obligation of grant funds.

Two respondents argued that the required showing that an RBC's failure was not due to negligence was too difficult to make and applied to a larger than intended set of parties. The showing required by the class deviation, and by the revised regulation, is derived directly from the statutory provision. The requirement can be met by a showing that the cause of the failure was other than negligence.

One respondent argued that the user charge deviation was unduly restrictive in requiring that reductions for low-income residents be absorbed by other classes. Other municipal revenues should be used to cover the decrease, the respondent recommended. The recommendation cannot be reconciled with the language of section 204(b) and 40 CFR 35.2140, which require that a grantee's user charge system assure that each recipient pays its proportional share of the system's total operation and maintenance costs. Under the Act and the regulations, other municipal revenues cannot substitute for user charges.

III. New Clean Water Act Provisions and Revisions to the Construction Grants Regulations

A. Federal Share

With the 1981 amendments to the Clean Water Act, Congress signaled its intention to gradually phase out the Federal role in wastewater treatment construction. Generally, grants for new construction awarded after September 30, 1984 would be reduced from 75 percent to 55 percent of the eligible project costs. However, phases or segments of a treatment works that had previously received a 75 percent grant for a phase or segment before October 1, 1984, could continue to receive a grant at that rate.

The 1987 Amendments end this "grandfathered" Federal share on September 30, 1990. This limitation has been added to the Federal share provisions of the regulations at 40 CFR 35.2152.

The 1987 Amendments also authorized a 75 percent Federal share for projects that applied for grant assistance before October 1, 1984, during the period when the higher Federal share was still generally available, but that were judicially enjoined from proceeding at that time. This authority is reflected in the amended construction grant regulations at 40 CFR 35.2152.

B. Agreement on Eligible Items

Under section 203(a)(2) of the Act, the Administrator is required to enter into an agreement with the applicant which specifies the items of the proposed project that are eligible for Federal payments before EPA awards a Step 3 grant or approves plans and specifications on a Step 2+3 grant. This provision will be implemented as a special grant condition for awards made after April 15, 1987. Eligibility determinations may still be audited and funds may be withheld or recovered for costs which are unreasonable, unsupportable or otherwise unallowable. 40 CFR 35.2100 is amended to implement this new procedure.

C. Non-Federal Share

A number of communities have applied grant assistance available to them through the Farmers Home Administration against their share of construction costs. This practice, long considered an acceptable use of other Federal funds, was specifically permitted by the Water Quality Act. The regulations at 40 CFR 35.2104 have been amended to reflect this provision of the Amendments.

D. Water Quality Management Planning

The 1987 amendments expanded and strengthened the requirements of section 204(a) of the Act for planning under sections 208 and 303(e). These requirements are set forth at 40 CFR 35.2102.

E. Reserves

The 1987 Amendments increased the amount that can be set aside from each State's construction grant allotment for alternatives to conventional treatment works for small communities. The Amendments also establish a new set-aside for State nonpoint source pollution control programs and two set-asides from the national title II allotment for marine and estuary protection and for awarding grants to Indian tribes. The new ceilings for the existing set-asides and the three set-asides established in the Amendments are reflected in the amended construction grant regulations at 40 CFR 35.2020.

IV. Other Revisions to the Construction Grants Regulations

Since the construction grant program regulations were last significantly amended on February 17, 1984 (49 FR 6224), two issues have arisen that require revisions. The first issue concerns the availability of funds from sources other than appropriations under titles II and VI to assist communities overcome difficulties in project performance certifications. The second issue concerns the allowability of small alternative treatment works for construction grant funding.

A. Project Performance

After reviewing the Act and its legislative history, the Agency has concluded that the limitation on Federal funding to correct problems that remain one year after completion of construction and initiation of operation (project certification period) does not apply to training funds under section 104(g)(1) of the Clean Water Act, but rather to funds for corrective construction. The clean water goals of the Act would be better met by allowing training assistance to be provided where such assistance would help a facility to meet its performance standards. Accordingly, the regulations are revised at 40 CFR 35.2218(d) to allow communities that are unable to certify that title II assisted facilities, or title VI equivalency projects, are meeting expected performance standards to apply for training assistance under section 104(g)(1) to meet the requirements of section 204(d)(2) of the Act.

B. Small Community Alternative Wastewater Treatment Facilities

Section 211 of the Act limits the funding of new conventional collection sewers to existing communities with sufficient existing or planned sewage treatment capacity. At 40 CFR 35.2116(b), EPA defines an "existing community" as one where generally two-thirds of the expected flow is from structures in place on or before October 18, 1972, the date section 211 was enacted.

In 1977, Congress amended the Act to encourage and promote the use of alternative waste management techniques. In an effort to promote the application of alternative technology in small communities, EPA determined that it was inappropriate to apply the 1972 two-thirds criteria (two-thirds rule) to small communities using alternative technologies. Instead, consistent with the primary focus of the 1977 amendments on controlling existing sources of pollution, the Agency determined that cost effective alternative treatment works providing the collection function in a centralized or cluster wastewater treatment management system would be eligible if they served water pollution control needs existing on December 27, 1977, the date of enactment of the 1977 amendments. Under this "1977 rule" portions of an alternative system (including grinder pumps and other on-site facilities) which serve structures constructed since December 27, 1977, are not eligible.

In 1981, Congress amended the Act to limit, after September 30, 1984, funding for collector sewers and several other categories of projects, to not more than 20 percent of a State's allotment (Governor's 20 percent discretionary funding). However, because the Act strongly encourages the use of alternative technologies in small communities, EPA decided that the collection portions of alternative treatment works should not be included in the collector sewer category (Needs Survey Category IV A) but rather in the secondary treatment category (Needs Survey Category I), and would not be restricted by the 20 percent limitation on collector sewers and other categories of projects.

Requests for regulatory deviations from the 1977 rule identified a circumstance that EPA did not anticipate when preparing the regulations in 1984. Under the 1972 two-thirds rule, once a collection system or a portion of a collection system using alternatives to conventional sewers as the cost effective alternative was

determined eligible, that collection system and all of its eligible components (including grinder pumps) were eligible for all residences in place through the date of the grant award. Conversely, a strict application of the 1977 rule makes ineligible the components serving individual structures built between December 27, 1977, and the date of grant award. Thus, in this circumstance the effect of the 1977 rule would be more restrictive than the 1972 two-thirds rule. In our efforts to promote and encourage the use of alternative systems in small communities, it was not anticipated or intended that the 1977 rule would be more restrictive than the 1972 two-thirds rule.

Consequently, the allowable cost requirements in appendix A to the construction grant regulations are amended to permit the application of the 1972 two-thirds rule, rather than the 1977 rule, in circumstances where it would be more advantageous to a small community constructing cost-effective alternative systems.

V. Treatment of Indian Tribes as States

In addition to section 518(c) which reserves funds from the construction grant appropriation specifically for grants to Indian Tribes, section 518(e) of the 1987 Amendments requires the EPA Administrator to promulgate regulations specifying how a Tribe will be treated as a State for certain Clean Water Act programs, including the title II construction grant program. An Indian Tribe that qualifies under the regulations may enter into an agreement with the Regional Administrator for delegated management of the construction grant program. Such an agreement is comparable to a delegation agreement between the Regional Administrator and a State. A delegation agreement would authorize the Indian Tribe to assist local communities within that Tribe's reservation in the planning, designing and building of wastewater treatment facilities.

Unlike delegated States which are eligible for grants under section 205(g), no funds are authorized to assist Tribes in administering the delegated construction grant program. Federally recognized Indian Tribes are eligible for construction grants from the new set-aside from title II appropriations without qualifying for treatment as States. Former Indian reservations in Oklahoma and Alaska Native Villages are eligible for the new Indian set-aside program under section 518(c), but are not eligible to be treated as States under section 518(e) for the purpose of the title II construction grant program.

An Indian Tribe that seeks treatment as a State must provide documentation evidencing that it fulfills the statutory criteria of sections 518(e) and 518(h) of the Act. A description of the types of information that must be provided, and the manner of its presentation, has been set forth previously in other regulations under the Clean Water Act that authorize treatment of Indian Tribes as States. (See the water quality management and planning regulation under section 106 of the Act, which was published in the *Federal Register* on April 11, 1989 (54 FR 14354)).

In the revised State delegation regulation, the statutory criteria for treatment of Indian Tribes as States have been restated at 40 CFR 35.3000(b). The remainder of the State delegation regulations set forth the requirements with which a delegated State and a qualifying Indian Tribe must comply to administer the construction grants program within its jurisdiction.

VI. Regulation Development Process

A. Executive Order 12291

This regulation has been reviewed under Executive Order 12291 and does not meet the criteria for a major regulation. This regulation will not result in: An annual effect on the economy of \$100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or U.S. enterprises operating in foreign or domestic markets. Because this regulation is not a major rule, a Regulatory Impact Analysis is not required. This regulation has been submitted to the Office of Management and Budget for review under the Executive Order.

B. Regulatory Flexibility Act

EPA did not develop a regulatory flexibility analysis for this rule because grant regulations are not subject to the analytical requirements of sections 603 and 604 of the Regulatory Flexibility Act.

C. Paperwork Reduction Act

The Office of Management and Budget (OMB) has approved the information collection requirements contained in this rule under the provisions of the Paperwork Reduction Act, 35 U.S.C. 3501 *et seq.* and have been assigned OMB control number 2040-0027.

Public reporting burden for this collection of information is estimated to average 18 hours per response, including

time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

This rule is associated with no increase in recordkeeping burden to respondents as covered under the provisions of the Act. Although the rule concerns the reporting of information in the form of a voluntary application from Indian Tribes seeking treatment as States, EPA does not expect any Tribes to apply.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: Chief, Information Policy Branch, PM-223, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460; and to the Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503, marked "Attention: Desk Officer for EPA." The final rule will respond to any OMB or public comments on the information collection requirements contained in this rule.

List of Subjects in 40 CFR Part 35

Grant programs—environmental protection, Wastewater treatment and disposal, Indian Tribes, Reporting and recordkeeping requirements.

Dated: June 15, 1990.

William K. Reilly,
Administrator.

For the reasons discussed in the preamble, the Environmental Protection Agency is amending 40 CFR part 35, subparts I and J as follows:

PART 35—[AMENDED]

Subpart I—Grants for Construction of Treatment Facilities

1. The authority citation for subpart I of part 35 continues to read:

Authority: Secs. 101(e), 109(b), 201 through 205, 207, 208(d), 210 through 212, 215 through 219, 304(d)(3), 313, 501, 502, 511, 516(b) and 518(c) of the Clean Water Act, as amended, 33 U.S.C. § 1251 et seq.

2. Section 35.2005 is amended by redesignating paragraphs (b)(47) through (b)(52) as paragraphs (b)(48) through (b)(53) and adding new paragraph (b)(47) to read as follows:

§ 35.2005 Definitions.

(b) * * *

(47) *Step 7. Design/building of treatment works wherein a grantee*

awards a single contract for designing and building certain treatment works.

3. Section 35.2012 is added to read:

§ 35.2012 Capitalization grants.

Amounts allotted to a State under title II may be deposited in that State's water pollution control revolving fund as a capitalization grant in accordance with 40 CFR 35.5020 (f) and (g).

4. Section 35.2015 is amended by revising paragraph (b)(2)(iii) to read as follows:

§ 35.2015 State priority system and project priority list.

(b) * * *

(2) * * *

(iii) After September 30, 1984, up to 20 percent (as determined by the Governor) of a State's annual allotment may be used for categories of need other than those listed in paragraph (b)(2)(ii) of this section and for any purpose for which grants may be made under sections 319 (h) and (i) of the Act (including any innovative and alternative approaches for the control of nonpoint sources of pollution).

5. Section 35.2020 is amended by revising paragraph (b) and adding paragraphs (f), (g) and (h) to read as follows:

§ 35.2020 Reserves.

(b) *Reserve for alternative systems for small communities.* Each State with 25 percent or more rural population (as determined by the population estimates of the Bureau of Census) shall reserve not less than 4 percent nor more than 7½ percent of the State's annual allotment for alternatives to conventional treatment works for small communities. The Governor of any non-rural State may reserve up to 7½ percent of the State's allotment for the same purpose.

(f) *Nonpoint source reserve.* Each State shall reserve 1 percent of its annual allotment or \$100,000, whichever is greater, for development and implementation of a nonpoint source management program under section 319 of the Act. Sums reserved by the State under this paragraph that are in excess of \$100,000 and that are not used for these purposes, may be used by the State for any other purpose under title II of the Act.

(g) *Marine estuary reserve.* The Administrator shall reserve, before allotment of funds to the States, 1 percent of the funds appropriated under

section 207 in fiscal years 1987 and 1988, and 1½ percent of the funds appropriated under section 207 in fiscal years 1989 and 1990, to carry out section 205(l) of the Act.

(h) *Indian program reserve.* The Administrator shall reserve, before allotment of funds to the States, one-half of 1 percent of the funds appropriated under section 207 in fiscal years 1987, 1988, 1989 and 1990, for grants for the development of waste treatment management plans and for the construction of sewage treatment works to serve Indian Tribes.

6. Section 35.2021 is amended by revising paragraph (a) to read as follows:

§ 35.2021 Reallotment of reserves.

(a) Mandatory portions of reserves under § 35.2020 (b) through (g) shall be reallotted if not obligated during the allotment period (§ 35.2010 (b) and (d)). Such reallotted sums are not subject to reserves. The State management assistance reserve under § 35.2020(a) is not subject to reallotment.

7. § 35.2025 is amended by revising paragraphs (a) and (b)(5) to read as follows:

§ 35.2025 Allowance and advance of allowance.

(a) *Allowance.* Step 2+3 and Step 3 grant agreements will include an allowance for facilities planning and design of the project and Step 7 agreements will include an allowance for facility planning in accordance with appendix B of this subpart.

(b) * * *

(5) In the event a Step 2+3, Step 3 or Step 7 grant is not awarded to a recipient of an advance, the State may seek repayment of the advance on such terms and conditions as it may determine. When the State recovers such advances they shall be added to its most recent grant for advances of allowance.

8. Section 35.2035 is added to read:

§ 35.2035 Rotating biological contractor (RBC) replacement grants.

The Regional Administrator may award a grant for 100 percent of the cost, including planning and design costs, of modification or replacement of RBCs which have failed to meet design performance specifications, provided:

(a) The applicant for a modification/replacement grant demonstrates to the Regional Administrator's satisfaction, by a preponderance of the evidence, that the RBC failure is not due to the negligence of any person, including the

treatment works owner, the applicant, its engineers, contractors, equipment manufacturers or suppliers;

(b) The RBC failure has significantly increased the project's capital or operation and maintenance costs;

(c) The modification/replacement project meets all requirements of EPA's construction grant and other applicable regulations, including 40 CFR parts 31, 32 and 35;

(d) The modification/replacement project is included within the fundable range of the State's annual project priority list; and

(e) the State certifies the project for funding from its regular (i.e. non-reserve) allotments and from funds appropriated or otherwise available after February 4, 1987.

9. Section 35.2036 is added to read:

§ 35.2036 Design/build project grants.

(a) *Terms and conditions.* The Regional Administrator may award a design/build (Step 7) project grant provided that:

(1) The proposed treatment works has an estimated total cost of \$8 million or less;

(2) The proposed treatment works is an aerated lagoon, trickling filter, waste stabilization pond, land application system (wastewater or sludge), slow rate (intermittent) sand filter or subsurface disposal system;

(3) The proposed treatment works will be an operable unit, will meet all requirements of title II of the Act, and will be operated to meet the requirements of any applicable permit;

(4) The grantee obtains bonds from the contractor in an amount the Regional Administrator determines adequate to protect the Federal interest in the treatment works (see 40 CFR 31.36(h));

(5) The grantee will not allow any engineer, engineering firm or contractor which provided facilities planning or pre-bid services to bid or carry out any part of the design/build work;

(6) Contracts will be firm, fixed price contracts;

(7) The grantee agrees that the grant amount, as amended to reflect the lowest responsive/responsible bid (see paragraph (e) of this section), will not be increased;

(8) The grantee will establish reasonable building start and completion dates;

(9) The grantee agrees that EPA will not pay more than 95 percent of the grant amount until after completion of building and the Regional Administrator's final project approval, based on initiation of operation and acceptance of the facility by the grantee;

(10) The grantee agrees that a recipient of a Step 7 grant is not eligible for any other grant for the project under title II of the Act; and

(11) The grantee accepts other terms and conditions deemed necessary by the Regional Administrator.

(b) *Procurement.* (1) Grantee procurement for developing or supplementing the facilities plan to prepare the pre-bid package, as well as for designing and building the project and performing construction management and contract administration, will be in accordance with EPA procurement requirements at 40 CFR part 31.

(2) The grantee will use the sealed bid (formal advertising) method of procurement to select the design/build contractor.

(3) The grantee may use the same architect or engineer that prepared the facilities plan to provide any or all of the pre-bid, construction management, and contract and/or project administration services provided the initial procurement met EPA requirements (see 40 CFR 31.36(k)).

(c) *Pre-bid package.* Each design/build project grant will provide for the preparation of a pre-bid package that is sufficiently detailed to insure that the bids received for the design/build work are complete, accurate and comparable and will result in a cost-effective, operable facility.

(d) *Grant amount.* The grant amount will be based on an estimate of the design/build project's final cost, including:

(1) An allowance for facilities planning if the grantee did not receive a Step 1 grant (the amount of the allowance is established as a percentage of the estimated design/build cost in accordance with appendix B of this subpart);

(2) An estimated cost of supplementing the facilities plan and other costs necessary to prepare the pre-bid package (see appendix A.1.1(a) of this subpart); and

(3) The estimated cost of the design/build contract.

(e) *Amended grant amount.* (1) After bids are accepted for the design/build contract, and the price of the lowest responsive, responsible bidder is determined, EPA will amend the design/build project grant based on:

(i) The amount of the lowest responsive, responsible bid;

(ii) A lump sum for construction management, contract and project administration services and contingencies;

(iii) Any adjustments to the final allowance for facilities planning if

included as required by paragraph (c)(1) of this section (the amount of the final allowance is established as a percentage of the actual building cost in accordance with appendix B of this subpart);

(iv) The actual reasonable and necessary cost of supplementing the facilities plan to prepare the pre-bid package (see paragraph (c)(1) of this section); and

(v) The submission of approvable items required by § 35.2203 of this part.

(2) Changes to Step 7 projects cannot increase the amount of EPA assistance established at the time of the grant amendment.

(f) *Allotment limit for design/build grants.* The Governor may use up to 20 percent of the State's annual allotment for design/build project grants.

10. Section 35.2040 is amended by adding a new paragraph (g) to read as follows:

§ 35.2040 Grant application.

(g) *Design/build project grant (Step 7).* An application (EPA Form 5700-20) for a design/build project grant shall include:

(1) All the information required in paragraphs (b)(1), (b)(2) and (b)(4) of this section; and

(2) The estimated building start and completion dates and Federal payment schedule (the start and completion dates may be revised when the design/build bids are accepted and included in the amended grant).

11. Section 35.2100 is revised to read as follows:

§ 35.2100 Limitations on award.

(a) *Facilities plan approval.* Before awarding grant assistance for any project the Regional Administrator shall approve the facilities plan and final design drawings and specifications and determine that the applicant and the applicant's project have met all the applicable requirements of §§ 35.2040 and 35.2100 through § 35.2127 except as provided in § 35.2202 for Step 2+3 projects and § 35.2203 for Step 7 projects.

(b) *Agreement on eligible costs.* (1) Concurrent with the approval of a Step 3, Step 2+3 or Step 7 grant, the Regional Administrator and the grant applicant will enter into a written agreement which will specify the items in the proposed project that are eligible for Federal payments and which shall be incorporated as a special grant condition in the grant award.

(2) Notwithstanding such agreement, the Regional Administrator may:

(i) Modify eligibility determinations that are found to violate applicable Federal statutes and regulations;

(ii) Conduct an audit of the project;

(iii) Withhold or recover Federal funds for costs that are found to be unreasonable, unsupported by adequate documentation or otherwise unallowable under applicable Federal cost principles;

(iv) Withhold or recover Federal funds for costs that are incurred on a project that fails to meet the design specifications or effluent limitations contained in the grant agreement and NPDES permit issued under section 402 of the Act.

12. Section 35.2102 is revised to read as follows:

§ 35.2102 Water quality management planning.

Before grant assistance can be awarded for any treatment works project, the Regional Administrator shall first determine that the project is:

(a) Included in any water quality management plan being implemented for the area under section 208 of the Act or will be included in any water quality management plan that is being developed for the area and reasonable progress is being made toward the implementation of that plan; and

(b) In conformity with any plan or report implemented or being developed by the State under sections 303(e) and 305(b) of the Act.

13. Section 35.2104 is amended by redesignating paragraphs (a) through (d) as paragraphs (a)(1) through (a)(4), by redesignating the introductory text as paragraph (a) introductory text, and by adding a new paragraph (b) to read as follows:

§ 35.2104 Funding and other considerations.

(b) Federal assistance made available by the Farmers Home Administration may be used to provide the non-Federal share of the project's cost.

14. Section 35.2118 is amended by revising paragraph (a)(1) to read as follows:

§ 35.2118 Preaward costs.

(a) * * *

(1) In emergencies or instances where delay could result in significant cost increases, the Regional Administrator may approve preliminary building work (such as procurement of major equipment requiring long lead times, field testing of innovative and alternative technologies, minor sewer rehabilitation, acquisition of eligible land or an option for the purchase of

eligible land or advance building on minor portions of treatment works) after completion of the environmental review as required by § 35.2113.

15. Section 35.2140 is amended by adding paragraph (i) to read as follows:

§ 35.2140 User charge system.

(i) *Low income residential user rates.*

(1) Grantees may establish lower user charge rates for low income residential users after providing for public notice and hearing. A low income residential user is any residence with a household income below the Federal poverty level as defined in 45 CFR 1060.2 or any residence designated as low income under State law or regulation.

(2) Any lower user charge rate for low income residential users must be defined as a uniform percentage of the user charge rate charged other residential users.

(3) The costs of any user charge reductions afforded a low income residential class must be proportionately absorbed by all other user classes. The total revenue for operation and maintenance (including equipment replacement) of the facilities must not be reduced as a result of establishing a low income residential user class.

16. Section 35.2152 is amended by revising paragraphs (a) introductory text and (a)(3) and by redesignating paragraphs (c) and (d) as (d) and (e) and by adding a new paragraph (c) to read as follows:

§ 35.2152 Federal share.

(a) *General.* The Federal share for each project shall be based on the sum of the total Step 2 or 3 or Step 7 allowable costs and the allowance established in the grant agreement under Appendix B. Except as provided elsewhere in this section the Federal share shall be:

(3) Subject to paragraph (c) and (d) of this section, 75 percent for grant assistance awarded after September 30, 1984 and before October 1, 1990, for sequential phases or segments of a primary, secondary, or advanced treatment facility or its interceptors, or infiltration/inflow correction provided:

(c) A project for which an application for grant assistance has been made before October 1, 1984, but which was under judicial injunction at that time prohibiting its construction, shall be

eligible for a grant at 75 percent of the cost of its construction.

18. Section 35.2203 is added to read as follows:

§ 35.2203 Step 7 projects.

(a) Prior to initiating action to acquire real property, a Step 7 grantee shall submit for Regional Administrator review and written approval the information required under § 35.2040(b)(7).

(b) Before approving a Step 7 grant amendment under § 35.2036, the Regional Administrator shall determine that the applicant and its project have met the requirements of §§ 35.2040 (b)(6) and (g), 35.2106, 35.2107, and 35.2122.

19. Section 35.2204 is amended by adding a new paragraph (c) to read as follows:

§ 35.2204 Project changes.

(c) Notwithstanding paragraph (a) of this section, changes to Step 7 projects cannot increase the amount of EPA assistance established at the time of the grant amendment.

20. Section 35.2212 is amended by revising paragraph (b) to read as follows:

§ 35.2212 Project initiation.

(a) * * *

(b) The grantee shall initiate procurement action for building the project promptly after award of a Step 3 grant or, after receiving written approval of the information required under § 35.2202 under a Step 2 + 3 grant or, for a Step 7 project, after completing the facilities plan and the preparation of a pre-bid package that is sufficiently detailed to insure that the bids received form the design/build work will be complete, accurate, comparable and will result in a cost-effective operable facility. Public notice of proposed procurement action should be made promptly after Step 3 award or after final approvals for a Step 2 + 3 grant under § 35.2202, or after completing the prebid package for the Step 7 award. The grantee shall award the subagreement(s) and issue notice(s) to proceed, where required, for building all significant elements of the project within twelve months of the Step 3 award or final Step 2 + 3 approvals.

21. Section 35.2218 is amended by adding a sentence to the end of paragraph (d) to read as follows:

§ 35.2218 Project performance.

(d) * * * This limitation on Federal funding for corrective actions does not apply to training funds under section 104(g)(1) of the Act.

22. Section 35.2300 is amended by adding paragraph (f) to read as follows:

§ 35.2300 Grant payments.

(f) *Design/build projects.* For design/build projects, the Regional Administrator shall not pay more than 95 percent of the grant amount until completion of building and the RA's final project approval (see § 35.2036(a)(6)).

23. Paragraph (b)C.1. of appendix A of 40 CFR part 35, subpart I, is revised to read as follows:

Appendix A—Determination of Allowable Costs

(b) * * *

C. Privately or Publicly Owned Small and Onsite Systems

1. Allowable costs for small and onsite systems serving residences and small commercial establishments inhabited on or before December 27, 1977, include a. through e. below. Alternatively, the two-thirds rule at 40 CFR § 35.2116(b) may be used to determine allowable residential flows to be served by publicly owned small and alternative wastewater systems, including a. through e. below:

24. Paragraph (b)H.2. of appendix A of 40 CFR part 35, subpart I, is further amended by removing the period at the end of paragraph e. and adding text to the end of e. to read as follows:

Appendix A—Determination of Allowable Costs

(b) * * *

H. Miscellaneous Costs

2. * * *

e. * * * or to a failed rotating biological contactor eligible for funding under § 35.2035.

25. Paragraph (b) of Appendix A of 40 CFR part 35, subpart I is further amended by adding a new section I to read:

Appendix A—Determination of Allowable Costs

(b) * * *

I. Design/Build Project Grants

1. Allowable costs include:

a. The costs of supplementing the facilities plan to prepare the pre-bid package including the cost of preliminary boring and site plans, concept and layout drawings, schematic, general material and major equipment lists and specifications, instructions to builders, general and special conditions, project performance standards and permit limits, applicable State or other design standards, any requirements to go into bid analyses, and other contract documents, schedules, forms and certificates.

b. The costs for building the project, including:

(1) Project costs based on the lowest responsive, responsible competitive design/build project bid.

(2) Construction management services including detailed plans and specifications review and approval, change order review and approval, resident inspection, shop drawing approval and preparation of an O & M manual and of user charge and sewer use ordinance systems.

(3) Any adjustments to reflect the actual reasonable and necessary costs for preparing the pre-bid package.

(4) Post-construction activities required by project performance certification requirements.

(5) Contract and project administration activities including the review of contractor vouchers and payment requests, preparation of monitoring reports, grant administration and accounting services, routine legal costs, cost of eligible real property.

(6) Contingencies.

2. Unallowable costs include:

a. All costs in excess of the maximum agreed Federal share.

b. Costs of facilities planning where the grantee has received a Step 1 grant.

26. Appendix B of 40 CFR part 35, subpart I, paragraphs 1, 4, and 8. are revised to read as follows:

Appendix B—Allowance for Facilities Planning and Design

1. This appendix provides the method EPA will use to determine both the estimated and the final allowance under § 35.2025 for facilities planning and design. The Step 2 + 3, Step 3 and Step 7 grant agreements will include an estimate of the allowance.

4. The estimated and final allowance will be determined in accordance with this Appendix and Tables 1, 2 and 3. Table 2 is to be used in the event the grantee received a grant for facilities planning. Table 3 is to be used to determine the facilities planning allowance for a Step 7 grant if the grantee did not receive a Step 1 grant. The amount of the allowance is computed by applying the resulting allowance percentage to the initial allowable building cost.

8. For a Step 3 or Step 7 project, the grantee may request payment of 50 percent of the Federal share of the estimated allowance immediately after grant award. Final payment of the Federal share of the allowance may be requested in the first

payment after the grantee has awarded all prime subagreements for building the project, received the Regional Administrator's approval for force account work, and completed the acquisition of all eligible real property.

27. 40 CFR 35, subpart I, appendix B is amended by adding Table 3 at the end of the appendix to read as follows:

TABLE 3.—ALLOWANCE FOR FACILITIES PLANNING FOR DESIGN/BUILD PROJECTS

Building cost (dollars)	Allowance as a percentage of building cost*
100,000 or less.....	5.9262
120,000.....	5.7337
150,000.....	5.5061
175,000.....	5.3538
200,000.....	5.2250
250,000.....	5.0163
300,000.....	4.8516
350,000.....	4.7162
400,000.....	4.6019
500,000.....	4.4164
600,000.....	4.2701
700,000.....	4.1499
800,000.....	4.0483
900,000.....	3.9606
1,000,000.....	3.8837
1,200,000.....	3.7538
1,500,000.....	3.6003
1,750,000.....	3.4976
2,000,000.....	3.4109
2,500,000.....	3.2703
3,000,000.....	3.1595
3,500,000.....	3.0684
4,000,000.....	2.9915
5,000,000.....	2.8669
6,000,000.....	2.7666
7,000,000.....	2.6880
8,000,000.....	2.6198

NOTE: Building cost is the sum of the allowable cost of (1) the initial award amount of the prime subagreement for building and designing the project; and (2) the purchase price of eligible real property. *Interpolate between values.

28. The authority section for 40 CFR part 35, subpart J is revised to read as follows:

Authority: Sections 205(g) and 518(e) of the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.

29. Section 35.3000 is amended by designating the existing text as paragraph (a) and by adding new paragraphs (b) and (c) to read as follows:

§ 35.3000 Purpose.

(a) * * *

(b) A State, for purposes of receiving delegation of construction grant program responsibilities under this subpart, shall include a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territories of the Pacific Islands (Palau), the Commonwealth of the Northern Marianas, and any Indian

Tribe, band, group, or community recognized by the Secretary of the Interior and exercising governmental authority over a Federal Indian reservation, provided that the Tribe satisfies the following criteria:

(1) The Indian Tribe has a governing body carrying out substantial governmental duties and powers. The Tribe must submit a narrative statement to the Regional Administrator describing the form of the Tribal government, describing the types of essential governmental functions currently performed and identifying the source of the authority to perform these functions.

(2) The functions to be exercised by the Indian Tribe pertain to the management and protection of water resources which are held by an Indian Tribe, held by the United States in trust for Indians, held by a member of an Indian Tribe if such property is subject to a trust restriction on alienation, or otherwise within the borders of an Indian reservation. Assertions by the Indian Tribe with respect to this criterion will be provided by EPA to adjacent governmental entities in accordance with 40 CFR 130.15.

(3) The Indian Tribe is reasonably expected to be capable, in the Regional

Administrator's judgment, of carrying out the functions to be exercised in a manner consistent with the terms and purposes of the Clean Water Act and applicable regulations.

(c) Where a Tribe has previously qualified for treatment as a State under a Clean Water Act or Safe Drinking Water Act program, the Tribe need only provide the required information which had not been submitted in a previous treatment as a State application.

[FR Doc. 90-14631 Filed 6-28-90; 8:45 am]

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Federal Register

Friday
June 29, 1990

Part X

Department of Defense

Corps of Engineers, Department of the
Army

33 CFR Part 334

Restricted Area, Naval Supply Center
Pier, San Diego Bay, San Diego, CA;
Interim Final Rule

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Part 334

Restricted Area, Naval Supply Center Pier, San Diego Bay, San Diego, CA

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Interim final rule.

SUMMARY: This interim final rule invites comments on the Corps of Engineers proposal to establish a restricted area in the waters of San Diego Bay adjacent to the Naval Supply Center Pier in San Diego, California. The area in the vicinity of the Naval Supply Center Pier must be protected because it contains a security interest which if compromised would cause damage to the command mission or national security. Vessels will be allowed to pass through the area without stopping. Entry into the area is prohibited only during wartime conditions.

DATES: Interim final rule effective June 29, 1990. Written comments must be received on or before July 30, 1990.

ADDRESS: HQUSACE, CECW-OR, Washington, DC 20314-1000.

FOR FURTHER INFORMATION CONTACT: Ms. Lisa Kegarice at (213) 894-5606 or Mr. Ralph Eppard at (202) 272-1783.

SUPPLEMENTARY INFORMATION: The Commanding Officer, Naval Supply Center, San Diego, California has requested the Army Corps of Engineers establish a restricted area in the waters adjacent to the Naval Supply Center Pier, San Diego. The restricted area will extend approximately 100 feet out from

the north, west and south sides of the Naval Supply Center Pier. There is no anticipated navigational hazard or interference with existing waterway traffic. However, vessels must proceed through the area without stopping, loitering or anchoring unless specifically authorized by the Commander, Naval Base, San Diego, or his designee.

This interim final rule is made effective immediately on June 29, 1990, due the existing and continuing threat to the security and safety of the personnel and property at the Naval Supply Center Pier. We will, however, consider any comments or objections submitted and make any changes to the regulations we determine to be appropriate.

Economic Assessment and Certification

This interim final rule is issued with respect to a military function of the Defense Department and the provisions of E.O. 12291 do not apply.

I hereby certify that this interim final regulation will have no significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 334

Navigation (water), Transportation, Danger zones.

In consideration of the above, the Corps of Engineers is amending part 334 of title 33 to read as follows:

PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

1. The authority citation for part 334 continues to read as follows:

Authority: 40 Stat. 266; (33 U.S.C. 1) and 40 Stat. 892; (33 U.S.C. 3)

2. In § 334.870, paragraph (d) is redesignated as paragraph (e) and

revised to read as follows, and a new paragraph (d), (d)(1) and (d)(2) are added to read as follows:

§ 334.870 San Diego Harbor, Calif.; restricted area.

(d) Restricted area at the Naval Supply Center Pier—(1) the area. The waters of San Diego Bay extending approximately 100 feet out from the north, west and south sides of the Naval Supply Center Pier enclosed by lines connecting the following stations:

Station	Latitude	Longitude
A.....	32°42'50" N	117°10'25" W
B.....	21°42'50" N	117°10'38" W
C.....	32°42'54" N	117°10'38" W
D.....	32°42'54" N	117°10'25" W

(2) The regulations. (i) No vessel or craft of any size shall lie-to or anchor in the restricted area at any time other than a vessel operated by or for the U.S. Navy, U.S. Coast Guard, other authorized military components, or other vessels authorized by Commander Naval Base, San Diego or his designee.

(ii) Loitering, dredging, dragging, seining, fishing and similar activities within the restricted area are prohibited.

(e) Enforcement. The regulations in this section shall be enforced by the Commander, Naval Base, San Diego, California, and such agencies as he/she may designate.

Dated: June 20, 1990.

Approved Patrick J. Kelly

Patrick J. Kelly,

Major General, USA, Director of Civil Works.

[FR Doc. 90-15144 Filed 6-28-90; 8:45 am]

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Federal Register

Friday
June 29, 1990

Part XI

Department of Defense

Department of the Army

32 CFR Part 556

Private Organizations on Department of the Army Installations; Rule

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 556

Private Organizations on Department of the Army Installations

AGENCY: Department of the Army, DOD.

ACTION: Final rule.

SUMMARY: The Army announces a revision of 32 CFR part 556. This revision provides policy and procedures for authorization and operation of private organizations (POs) on Army installations and sets policy for official participation by Department of the Army (DA) agencies, commands, and personnel in activities of private organizations operating on- and off-post. It implements DOD Instruction 1000.15 and DOD Directives 5500.2 and 5500.7 cited in 32 CFR part 212.

EFFECTIVE DATE: July 30, 1990.

FOR FURTHER INFORMATION CONTACT: Ms. Tracy Kennedy, Community and Family Support Center, ATTN: CFSC-AE-P, Alexandria, VA 22331-0507, (202) 325-9370.

SUPPLEMENTARY INFORMATION: This revision also refines guidance concerning official involvement with private organizations; implements legislation to support Scouting Associations; provides guidance for the operation of on-post informal funds; revises the audit requirement for private organizations operating on-post; updates policy for provision of Government support and services to on-post private organizations; deletes requirement for nationally affiliated bowling leagues to become private organizations; provides guidance for type 2 private organizations overseas; and rescinds AR 1-210 and incorporates that information in section E, thereby removing one regulation from the Army inventory.

Executive Order 12291

This final rule has been reviewed under Executive Order 12291 and the Secretary of the Army has classified this action as nonmajor. The effect of the final rule on the economy will be less than \$100 million.

Regulatory Flexibility Act

This final rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 and the Secretary of the Army has certified that this action does not have a significant impact on a substantial number of small entities.

Paperwork Reduction Act

This final rule does not contain reporting or recordkeeping requirements subject to approval by the Office of Management and Budget under the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

List of Subjects in 32 CFR Part 556

Army Department, Federal buildings and facilities.

Kenneth L. Denton,

Alternate Army Liaison Officer With the Federal Register.

32 CFR Part 556 is revised as follows:

PART 556—PRIVATE ORGANIZATIONS ON DEPARTMENT OF THE ARMY INSTALLATIONS

Sec.

Subpart A—Introduction

- 556.1 Scope.
- 556.2 References.
- 556.3 Explanation of abbreviations and terms.
- 556.4 Responsibilities.

Subpart B—Private Organizations

Description

- 556.5 Types of private organizations.
- 556.6 Informal funds.

Policy

- 556.7 Overview.
- 556.8 Restrictions.
- 556.9 PO employment and membership practices.
- 556.10 Insurance.
- 556.11 Audit.
- 556.12 Taxes.
- 556.13 PO compliance with State or local laws.

Subpart C—Requirements and Procedures for On-Post Operation

- 556.14 Overview.
- 556.15 Recreational and educational POs.
- 556.16 Standardized documentation.

Subpart D—Support and Services

Funding

- 556.17 Overview.
- 556.18 Resale and fundraising activities.

Personnel

- 556.19 Exclusions.
- 556.20 Permissive temporary duty (TDY).
- 556.21 Special events.

Logistical Support and Services

- 556.22 Overview.
- 556.23 Use of space and facilities.
- 556.24 Equipment.
- 556.25 Transportation.
- 556.26 Utilities.
- 556.27 Printing and copying services.
- 556.28 Postal support.
- 556.29 Other services.
- 556.30 Type 2 POs operating overseas.

Subpart E—Participation in Activities of Private Organizations (Associations)

- 556.31 Scope.
- 556.32 Limitations.
- 556.33 Official participation in POs.
- 556.34 Permissive TDY.

Appendix A to Part 556—References

Appendix B to Part 556—Classification System for Private Organizations by Type and Subtype Glossary

Authority: 10 U.S.C. 3102.

Subpart A—Introduction

§ 556.1 Scope.

(a) *Purpose.* This regulation sets forth policy, procedures, and responsibilities for the authorization and operation of private organizations (POs) operating on Army installations, and official participation by Department of the Army (DA) agencies, commands, and personnel in the activities of POs and associations regardless of whether they operate on or off DA installations. This guidance does not cancel any specific agreements between Federally sanctioned or affiliated POs and the U.S. Government, the Department of Defense (DOD), or DA.

(b) *Applicability restrictions.* This regulation does not apply to—

- (1) POs operating outside of DA installations that request use of Army space or facilities.
- (2) Army funds or activities accounted for under U.S. Treasury symbols.
- (3) Nonappropriated fund instrumentalities (NAFIs).
- (4) Appropriated fund (APF) and nonappropriated fund (NAF) contractor and subcontractor organizations and funds on DA installations.
- (5) Patients' trust funds.
- (6) Prisoner of war funds.
- (7) Prisoners' personal deposit funds.
- (8) Funds established for civilian employees at civil works activities of the Corps of Engineers.

§ 556.2 References.

Required and related publications are listed in appendix A to this part.

§ 556.3 Explanation of abbreviations and terms.

Abbreviations and special terms used in this regulation are explained in the glossary.

§ 556.4 Responsibilities.

(a) The Deputy Chief of Staff for Personnel (DCSPER) will be the Headquarters, Department of the Army (HQDA) proponent for POs on DA installations.

(b) The Commander, U.S. Army Community and Family Support Center

(CFSC), will establish DA policies and procedures for operation of POs on DA installations.

(c) Major Army commanders will—

(1) Ensure that subordinate commands comply with this regulation.

(2) Review installation policies and procedures for monitoring POs.

(d) Installation commanders will—

(1) Ensure that all POs operating on their installations comply with this regulation.

(2) Determine what conditions require an official inquiry or investigation of a PO to best preserve United States interests. An official inquiry will not be made to meet the biennial PO audit requirement.

(3) Prohibit the possession or sale of drug abuse paraphernalia by or in POs, as required by AR 190-30.

Subpart B—Private Organizations

Description

§ 556.5 Types of private organizations.

(a) *Three PO types.* (1) Type 1—Federally sanctioned POs. POs that provide a recognized service to DOD and its employees. These POs are sanctioned by specific DOD authority. All type 1 POs are governed by this regulation except those listed below.

(i) Credit unions. (See AR 210-24.)

(ii) Banking offices or institutions. (See AR 210-135.)

(iii) American National Red Cross. (See AR 930-5.)

(iv) United Service Organization, Inc. (See AR 930-1.)

(v) United Seamen's Service. (See AR 700-83.)

(vi) Labor organizations subject to section 71, title 5, United States Code (5 U.S.C. 71) (See Federal Personnel Manual (FPM) chap. 711.)

(vii) Association of Supervisors and Managers. (See CPR 251.)

(viii) Civil Air Patrols. (See Air Force Regulation 46-6.)

(ix) Army Emergency Relief. (See AR 930-4.)

(2) *Type 2—Affiliated POs.* POs that have a national or State headquarters with local chapters, affiliations, or lodges. These POs conduct activities of common interest to a voluntary membership.

(3) *Type 3—Independent POs.* POs established, organized, operated, and controlled locally by common interest groups with no formal association with outside or parent organizations.

(b) *PO subtypes.* (1) For classification purposes there are eight authorized subtypes of POs. Classification of POs does not confer a preferred status on any one type or subtype, but serves to

identify the various POs commonly found on DA installations. All POs operating on-post will receive equal treatment. (See appendix B to this part for a classification schematic of POs.)

(2) Authorized groupings are based upon one or more of the following characteristics:

(i) Similar purposes or objectives.

(ii) Related activities.

(iii) Common age level of membership.

§ 556.6 Informal funds.

Certain unofficial activities may operate on DA installations without being authorized as type 3 (Independent) POs, provided they do not exceed a net worth of \$1,000. Installation commanders may exclude certain funds or activities from the provisions of this regulation due to their limited scopes, activities, memberships, or funds. (Examples are office coffee funds, cup and flower funds, Christmas party funds, family support groups, Army Community Service (ACS) volunteer activities, and annual picnic funds.) These smaller funds are subject to the following:

(a) Only one individual is to be responsible for fund custody, accounting, and documentation. The fund custodian will administer fund business during off-duty time. This individual will report annually to his or her military rater or civilian supervisor, as appropriate, concerning the fund's existence and purpose, financial status, or upon occurrence or suspicion of irregularities associated with the fund.

(b) Use is limited to expenses consistent with the purpose and function of the fund, and is not to be expended in any way that is, or appears to be, improper or contrary to Army interests.

(c) Compliance with AR 600-50 is to be observed when participating in private organizational activities and when expending informal funds.

(d) Commanders are to ensure that personnel are aware of Army policy regarding private organizations and may establish more specific policy and procedures for private organizational activities and informal funds on their installations.

Policy

§ 556.7 Overview.

(a) POs are not NAFIs, so they are not entitled to the special immunities and privileges given NAFIs.

(b) POs are not entitled to, and will not receive, DA endorsement by virtue of their contributions to the military installation, their espousal of DA goals and objectives, their support of the military community, or for any other reason.

(c) There is no official relationship between PO activities and official duties and responsibilities of DOD personnel who are PO members or participants.

(d) POs are not part of the military organization, so they receive only limited Government supervision.

(e) POs operate on a financially and operationally self-sustaining basis, except for support authorized in chapter 4.

(f) Neither the Federal Government nor its NAFIs have any vested interest in the assets of a PO. Nor will either make any claim to PO assets or incur or assume any obligation of a PO.

(g) Installation commanders may acquire for the installation (under DA policy and applicable Federal laws) property—

(1) Abandoned by a PO due to its disestablishment.

(2) Given to the installation by the PO. (See AR 1-100.)

(h) POs will follow all laws governing comparable private sector activities. (See § 556.13)

(i) DA interest in the operations of POs is due only to their—

(1) Location on DA installations.

(2) Relationships with both the Federal and private sectors.

(3) Activities that support recognized programs that benefit the DOD family.

(4) Responsibilities as employers.

§ 556.8 Restrictions.

(a) No PO will use or include in its title, logo, or letterhead—

(1) The name or seal of DOD or the acronym "DOD."

(2) The name, abbreviation, or seal of any military department or Service.

(3) The seal, insignia, or other identifying device of the local installation. The installation commander may authorize an exception to this restriction if clear identification is needed, provided official DOD sponsorship or endorsement is neither stated nor implied.

(b) Activities of POs will in no way prejudice or discredit DOD components or other agencies of the Federal Government.

(c) A PO will not duplicate or compete with a NAFI or APF governmental function on a DA installation.

(d) All PO functions and expenditures must be authorized by the local PO's constitution by bylaws. Only the PO will choose its specific functions and expenditures. DOD personnel acting in an official capacity will not influence these choices.

(e) A PO will not be created, operated, or administered by DOD personnel acting in an official capacity or on

behalf of an official purpose to evade restrictions on expenditures of APFs or NAFs.

(f) A PO will not be created, operated, or administered for a commercial purpose.

(g) POs will not engage in the resale of alcoholic beverages at any time.

§ 556.9 PO employment and membership practices.

(a) POs must follow all labor laws that apply to private sector employment. POs will not be allowed to operate on DA installations if their employment practices discriminate based on—

- (1) Sex, age, religion, race, color, national origin, or marital status;
- (2) Lawful political affiliation;
- (3) Labor organization membership; or
- (4) Physical handicaps.

(b) POs will not discriminate in membership on the basis of race, color, sex, national origin, or religion. This does not preclude the existence of religious, cultural, or ethnic POs when—

(1) Their membership is not restricted or discriminatory;

(2) Similar religious, cultural, or ethnic POs are approved without preference.

(c) The installation commander may approve the operation of certain POs that restrict membership to one sex. One or more of the following must apply:

(1) The PO's purpose is philanthropic and, by tradition, its membership has been of one sex.

(2) The PO's purpose and function is to benefit one sex, and its membership is composed of that sex. (Examples are scouting organizations or women's and men's sports associations.)

(3) The PO has a specific purpose and function that restricts membership to one sex, but also has a counterpart organization with the same purpose and function. (Examples are women's and men's sports clubs, women's and men's civic associations, boy/girl scouting organizations.)

(d) PO membership campaigns and recruitment practices will neither involve nor give the appearance of involving compulsion, coercion, or influence. (See AR 600-50 and AR 600-20.) Prohibited activities include the following:

(1) Repeated petitions, orientations, or counseling of persons who have chosen not to join a PO.

(2) Use of membership statistics by supervisors to influence nonmembers.

(3) Compilation of by-name lists of nonmembers.

§ 556.10 Insurance.

(a) When appropriate, POs will obtain adequate insurance as protection against public liability claims, property

damage claims, or other legal actions arising from activities of the PO, or one or more of the PO's members acting on its behalf.

(b) Insurance will be appropriate when PO activities or functions expose the public to possible risk.

(c) Insurance (such as fidelity or fire insurance) of PO assets is the responsibility of each PO.

§ 556.11 Audit.

POs with gross annual revenue of \$1000 or more will be audited at least once every 2 years. The following provisions apply:

(a) POs using a double entry accounting system, regardless of source of income over \$1000, will be audited by a qualified auditor. (See definition in glossary.)

(b) POs using a single entry accounting system will be audited as follows:

(1) With income only from contributions dues, and assessments, by either a PO member who holds no office and is at least 18 years of age, or a qualified auditor.

(2) When they engage in resale or fundraising activities, by either an appointed committee of three PO members who hold no offices, or a qualified auditor.

(c) Type 2 POs with financial statements audited annually by their national headquarters may submit a copy of such an audit. If not audited by their national headquarters, the provisions of paragraphs (a) and (b) of this section.

§ 556.12 Taxes.

POs must comply with all Federal, State, and local tax laws. POs must seek private counsel or contact proper tax officials to ensure compliance with all tax laws. POs located overseas will obtain a statement of clarification from the local office of the Staff Judge Advocate (SJA).

(a) Federal income tax. Certain types of POs (for example, charitable, religious, educational, or scientific) may qualify for exemption from Federal income tax under section 501 of the Internal Revenue Code. Type 2 POs, in which national organizations control taxes for all local chapters, must provide a statement to this effect; it must be signed and notarized by the national headquarters. All other POs will obtain a statement of their tax status from their Internal Revenue Service (IRS) district office.

(b) Federal income tax withholding for employees, Federal employee taxes, and reports on amounts paid. POs must comply with laws that apply and obtain

guidance from private counsel or the IRS.

(c) State and local sales, income, occupation, and employer taxes. Local law will determine whether POs—

(1) Must comply with State and local tax requirements, or

(2) Are exempt from State and local tax requirements.

§ 556.13 PO compliance with State or local laws.

(a) Licensing, certification, or registration with State or local authorities may be required for POs engaging in certain activities such as raffles or insurance operations. In approving a permit to operate, the installation commander will decide whether the PO should request a written statement from State or local commissions as to how State laws, local laws, or other requirements apply. The commander will consult with the local SJA office in making this decision.

(b) POs are not exempt from State or local law because they operate on Federal property. This regulation does not require licensing, certification, or registration of PO activities unless specifically required by State or local authorities. The licensing requirement applies only in the State containing the Federal property in which the PO operates.

Subpart C—Requirements and Procedures for On-Post Operation

§ 556.4 Overview.

The following procedures apply to all POs subject to this regulation, except as discussed in §§ 556.15 and 556.16.

(a) *Operating permit.* All POs that operate on DA installations must have an operating permit. POs seeking a permit to operate on a DA installation must apply in writing to the installation commander.

(b) *Documentation.* (1) Application for a permit will include—

(i) A charter, articles of agreement, constitution, or bylaws. (See sample format at figure C-1 in § 556.15.) Private organizations not using one of these documents in the standard format must ensure that all required information is submitted to the installation commander; the PO may provide a separate document, in conjunction with a charter, articles of agreement, constitution, or bylaws, which completes all information required by this paragraph.

(ii) Any other documentation that states the PO's nature, functions, objectives (including planned use of funds), and activities.

(2) Application documentation will—
(i) Define membership eligibility. (The majority of membership will be composed of the DOD family.)

(ii) Set forth responsibilities for all management functions. These functions include accountability of assets, coverage and limitation of insurance, and disposition of remaining assets upon breakup of the PO.

(iii) Include a statement of the PO's liability if assets are not enough to cover all PO liabilities. The statement of liability will meet all State and jurisdictional laws; it will also address the extent of PO members' personal liability for debts of, or claims against, the PO. State laws governing the liability of national headquarters of type 2 POs generally apply to all local chapters unless specifically superseded by laws of States where local chapters are established.

(3) To operate on a DA installation, type 2 POs must meet the requirements of both their national headquarters and this regulation.

(c) *Revalidation.* All POs must have their operating permits revalidated every 2 years. Requests for revalidation of operating permits will be submitted to the installation commander 90 days before the current permit expires. The letter of application will request continued operation and will include any major changes in PO activities, objectives, organization, or changes in its constitution, bylaws, and so forth. If revalidation is not obtained, the current permit automatically expires 2 years from the date of last approval. Commanders will establish suspense dates for each PO to seek revalidation and will notify POs of these dates.

(d) *Installation review.* Installation commanders will review all PO documentation for both initial permission to operate and for revalidation of operating permits. Approval will be granted or denied based on this review. Approval of an initial or revalidation request will permit a PO to operate on the installation for 2 years. The installation commander may revoke permission to operate at any time during the 2-year period. Written approval will include a statement freeing the installation from any liability of the PO. Installation commanders' reviews of PO applications will ensure the following:

(1) PO income will not personally profit individual members, except through—

(i) Salaries as employees of the PO; or
(ii) Payment for services rendered.

(2) As an exception, the installation commander may authorize an

investment club that satisfies all other provisions of this regulation.

(3) PO income will be used to pay operating expenses; expenses include charitable contributions by the PO and competitive awards to PO members or installation personnel.

(e) *Reporting requirements.* (1) POs will supply the following to the installation commander:

(i) Minutes of PO meetings. POs will submit minutes or summaries of meetings, if required by the installation commander.

(ii) Financial statements. POs with gross annual revenue of \$1000 or more will submit annual financial statements to the installation commander. (The installation commander may require more frequent submission.) Annually, installation commanders will send financial statements of POs whose gross annual revenue exceeds \$100,000 to their major Army command (MACOM).

(iii) A copy of audit reports.

(iv) A copy of tax status, if required.

(v) A copy of correspondence concerning applicability of State or local laws. (See § 556.13.)

(2) Installation commanders will keep a current file on each PO. It will contain the latest copy of—

(i) All reports submitted by the PO, as stated in paragraph (e)(1) of this section.

(ii) The PO's charter, constitution, bylaws, articles of agreement, and so forth. (POs will keep installation commanders informed of changes in officers or points of contact.)

(iii) The PO's request for a permit to operate or for revalidation, and a copy of the installation commander's letter of approval.

(iv) The PO checklist, contained in DA Circular 11-88-1, will be completed per guidance in AR 11-2.

(f) *Termination of PO operation.* A PO may be discontinued by—

(1) The membership; or

(2) The installation commander, who may withdraw permission to operate on the DA installation at any time.

§ 556.15 Recreational and educational POs.

Certain POs may operate on DA installations as extensions of APF or NAF recreational or educational activities. Such POs need not fulfill the procedural requirements of § 556.14, although they are subject to all other provisions of this regulation. The operation of these POs on the installation requires the approval of the installation commander, who will prescribe local guidance for them. Examples of these POs are—

(a) Bowling leagues, little league organizations, and other recreational

POs supervised by the director of community recreation.

(b) Those POs formed and operated in conjunction with installation dependent schools under the administrative supervision of a member of the school faculty. (Examples include, but are not limited to, school drama clubs, yearbook funds, language clubs, National Honor Societies, and Keyettes or Keys.)

§ 556.16 Standardized documentation.

(a) The national constitution, standard bylaws, charter, or articles of agreement of type 2 POs listed in table C-1 have been reviewed by CFSC-AE-P and found to meet all requirements of this regulation. Inclusion in this list does not imply official DA sanction, endorsement, or sponsorship of these POs. National headquarters of other type 2 POs may submit their national constitutions, bylaws, and so forth, for review and possible inclusion in table C-1 by sending a complete copy to Commander, CFSC, ATTN: AE-P, Alexandria, VA 22331-0507. Affiliated chapters of the POs listed in table C-1 may fulfill the requirements of § 556.14(b) by the following procedures:

(1) Local chapters will submit a letter to the installation commander requesting a permit to operate.

(2) The letter will contain—

(i) A statement of the charter's standing with the national organization.

(ii) A statement that the standard chapter bylaws prescribed by the national headquarters have been adopted without change. Any changes made by the local chapter will require review by the installation commander.

(iii) A statement of the intended scope and substance of chapter activities.

(3) Local chapters must also provide a copy of the national constitution, bylaws, charter, or articles of agreement. Installation commanders will use these in reviewing PO operations for compliance with the policies in § 556.8.

(b) While completing procedures in paragraph (a) (1), (2), and (3) of this section satisfies the requirements of § 556.14 (a) and (b) local chapters are still subject to revalidation and reporting requirements as contained in § 556.14 (c) and (e).

TABLE C-1.—TYPE 2 POS WITH DA-REVIEWED BYLAWS

Name of organization	Address of national headquarters	Federal tax exempt
Association of the United States Army.	2425 Wilson Boulevard, Arlington, VA 22201-3326.	Yes.

TABLE C-1.—TYPE 2 POS WITH DA-REVIEWED BYLAWS—Continued

Name of organization	Address of national headquarters	Federal tax exempt
Noncommissioned Officers Association.	International HQ Complex, P.O. Box 33610, San Antonio, TX 78265-3610.	Yes.
United States Army Warrant Officers Association.	P.O. Box 3765, Washington, DC 20007-0265.	Yes.
Society of Logistics Engineers.	303 Williams Avenue, Suite 922, Huntsville, AL 35801-6061.	Yes.
Armed Forces Broadcasters Association.	P.O. Box 12013, Arlington, VA 22209-0013.	Yes.
Veterans of Foreign Wars of the United States.	VFW Building, 406 West 34th Street, Kansas City, MO 64111-0001.	Yes.
Armed Forces Communications and Electronics Association.	4400 Fair Lakes Court, Fairfax, VA 22033-3599.	Yes.
Reserve Enlisted Association of the United States.	P.O. Box 2836, Washington, DC 20013.	Yes.
National Defense Transportation Association.	727 N. Washington Street, Suite 200, Alexandria, VA 22314-1976.	Yes.
American Military Members Association of the United States of America.	8610 Broadway, Suite 217, San Antonio, TX 78217-6354.	Yes.

Figure C-1. Sample of a Format for Bylaws
BYLAWS

ARTICLE I

Organization Name and Purpose

ARTICLE II

General Provisions

(Include all statements required by this regulation such as the statement of personal liability and licensing/registration of activities required by law [for raffles, insurance resale, and so forth]. Any documentation, such as a license or certificate of registration, should be attached and noted in this section.)

ARTICLE III

Policy

ARTICLE IV

Membership

ARTICLE V

Officers and Governing Body

ARTICLE VI

Duties of Officers

ARTICLE VII

Elections and Voting

ARTICLE VIII

Standing Committees

ARTICLE IX

Method of Financing

ARTICLE X

Taxes

ARTICLE XI

Insurance Coverage

ARTICLE XII

Meetings and Quorums

ARTICLE XIII

Activities

ARTICLE XIV

Awards and Gifts

ARTICLE XV

Dissolution

(Include the following paragraph: "If the organization is dissolved, all funds in the treasury at the time will be used to meet any outstanding debts, liabilities, or obligations. The balance of these assets will be disposed of as determined by the membership.")

Approved by Majority Vote on..... (date)

(Signed) _____

President _____

(Signed) _____

Secretary _____

Subpart D—Support and Services

Funding

§ 556.17 Overview.

(a) POs subject to this regulation will be self-sustaining except for limited logistical support that may be granted by installation commanders. (See Logistical Support and Services of this subpart) Funds will be obtained through dues, contributions, service charges, fees, or special assessment of members.

(b) Neither APFs nor NAFs are authorized to transfer any monies or other assets to any PO, including the Boy Scouts and Girl Scouts, by means of contributions, dividends, or other distributions, except as provided by statute. (See section 155, title 10, United States Code (U.S.C.) (10 U.S.C. 115).)

§ 556.18 Resale and fundraising activities.

(a) POs will not engage in on-post resale and fundraising activities unless the installation commander authorizes—

(1) Thrift shop sales of used clothing and used or handcrafted merchandise; net proceeds of such sales will be donated as specified in § 556.18(b)(2)(iii) of this section.

(2) Museum gift shop sales of items related to museum activities per AR 870-20.

(3) Occasional fundraising activities such as dances, car washes, cake raffles, bazaars, or other special events. All POs will comply with State codes requiring licensing for raffles; PO-sponsored raffles will not be permitted in States that prohibit them. Occasional sales for fundraising purposes within the continental United States (CONUS) will offer only the services and merchandise listed in AR 60-20, appendixes B and C.

(b) Exceptions to the continuing resale prohibition may be granted—

(1) By the installation commander as follows:

(i) Sales are restricted to PO members.

(ii) Merchandise sold is related directly to the purpose of the PO.

(iii) The Army and Air Force Exchange Service (AAFES) and other installation NAFIs state in writing an inability to meet the resale requirement.

(2) By major Army commanders as follows:

(i) Sales are not restricted to PO members and merchandise is not directly related to the PO's purpose.

(ii) AAFES and other installation NAFIs state in writing an inability to meet the resale requirement.

(iii) Net proceeds from sales are donated by the PO to—

(1) The installation to support its morale, welfare and recreation (MWR) and other community and family support activities, scholarship funds, or installation hospitals, schools, museums, and so forth.

(2) Local off-post hospitals, museums, libraries, and other community organizations used by, and of direct benefit to, the installation community. (Donations do not include proceeds used to cover the PO's expenses in providing such sales.)

(c) A copy of MACOM approval for such operations will be sent to Commander, CFSC, Attn: AE-P, Alexandria, VA 22331-0507.

Personnel

§ 556.19 Exclusions.

Neither soldiers nor DA employees (APF or NAF) will, as an official duty, be assigned to work for POs.

§ 556.20 Permissive temporary duty (TDY).

Installation commanders may authorize permissive TDY for active duty military personnel to support national Scouting organizations per AR 630-5, paragraph 12-4(e).

§ 556.21 Special events.

Installation commanders may authorize the use of military personnel and APF or NAF civilians to support special events that may benefit POs. The use of such personnel is only to prepare installation facilities and grounds for the event. The following conditions must be met:

- (a) The commander must approve the special event (such as a fair, bazaar, or picnic) to be conducted on the installation.
- (b) The event must benefit or enhance the morale of the installation DOD family.
- (c) The event must be open to all members of the installation DOD family.
- (d) The event must not compete with resale activities of the installation's MWR and other community and family support programs unless authorized, on an exception basis, by the installation commander.
- (e) The event must not state or imply endorsement of a PO or specific commercial goods or services.

Logistical Support and Services**§ 556.22 Overview.**

The amount and type of support authorized for a PO depends on the authority under which the PO is organized.

- (a) For type 1 POs governed by other directives (see § 556.5(a)(1)) support is authorized as stated in those directives.
- (b) For support for all other POs, §§ 556.23 through 556.30 will be followed. (For POs on Army Reserve Centers requesting use of space and facilities, see AR 140-488.)
- (c) Under the provisions of AR 37-60, paragraphs 3-6 and 3-8, installation commanders may waive or reduce charges to nonprofit POs for any of the support elements listed in paragraph 3-3 of that regulation. This applies only to support provided to a PO on an occasional or nonrecurring basis.

§ 556.23 Use of space and facilities.

Most POs require space only for periods of time necessary to conduct regular organizational meetings or for other occasional or nonrecurring PO-sponsored events. Installation commanders may grant use of space to include utilities, in-place equipment, and janitorial supplies used without charge when it is incidental to other uses of the facility. PO use of space is governed by

AR 405-80. Specific provisions are as follows:

(a) *Use of space or facilities under license agreement.* Use may be granted by means of a revocable-at-will license and will be defined as occasional, nonregular, regular part-time, or full-time use of space, and will not contain any of the terms in paragraph (b) of this section. Commanders will determine whether or not the license will be on a rent-free basis. POs have no property rights when use of space is granted under a license agreement. Specifically, such use—

- (1) Entails use of space that may be recalled at any time by the installation commander without prior notice to the PO.
 - (2) Involves no lease agreement between the PO and the installation.
 - (3) Permits storage of equipment and supplies provided that such storage does not interfere with, nor restrict, the normal use of the facility by other users.
- (b) *Use of space and facilities under lease agreement.* Use of space under a lease agreement will be defined as the guaranteed sole use of space or a facility on a full-time basis; guaranteed use of space for a specific period of time; or storage of in-place equipment or supplies that impairs or restricts normal use of the facility by other users. POs have certain property rights when use is granted under a lease agreement. Specifically, such use—

- (1) Guarantees facility use for a specific period of time. Termination of the lease agreement requires a 30-day notice except in times of national emergency.
- (2) Requires a lease agreement between the PO and the U.S. Government. This lease protects the PO's use of the facility based upon other conflicting installation priorities and requirements.
- (3) Requires payment for use of space and facilities under a lease agreement.
 - (i) Rent for use of space in CONUS will be set by the district engineer.
 - (ii) Rent outside the continental United States (OCONUS) will be set by installation commanders per host country Status of Forces Agreements, treaties, or other agreements under which the Army controls such real estate.

(c) *Exceptions.* At the discretion of the installation commander:

- (1) Nonprofit thrift shops and museum foundation POs may be granted use of space by means of a rent-free, revocable-at-will license.
- (2) On-post youth group POs (Scouts, little league, and so forth) may be granted revocable-at-will licenses for one-time, intermittent, or continuing use

of available meeting facilities. (See AR 405-80.)

(d) *Use by veterans' organization.* AR 405-80 authorizes major Army commanders to lend certain real property (including unoccupied barracks) to veterans' organizations for use at—

- (1) State or national conventions; or
- (2) National youth athletic or recreational tournaments sponsored by veterans organizations.

§ 556.24 Equipment.

POs must furnish or procure equipment, supplies, and other materials at their own expense.

(a) Government-owned equipment may be loaned or rented to a PO; however, such equipment must be directly related to the purpose and function of the PO.

(b) APFs and NAFs will not be used to repair equipment owned by, or loaned to, tenant POs unless a request is approved by the installation commander for the PO to reimburse the installation for such repairs.

(c) Audio-visual hardware and software may be used by POs when not in use for official purposes. (See AR 108-2.)

§ 556.25 Transportation.

All transportation support provided to POs will be on a reimbursable basis per AR 58-1, per the provisions of AR 37-60 (see § 556.22) to include all operations and maintenance costs associated with providing this service. The installation commander will ensure that transportation made available to POs neither is detrimental to the command mission nor generates requirements for additional military vehicles. Specific provisions follow:

(a) In CONUS, the commander may authorize reimbursable military bus service in support of PO-sponsored or co-sponsored special events on post, if other conditions of section 556.21 (1) and (b) are met.

(b) At OCONUS locations, military buses may be authorized on a reimbursable basis to support special events conducted at non-military sites.

§ 556.26 Utilities.

All POs will reimburse the installation for utilities except when not required under § 556.22.

§ 556.27 Printing and copying services.

POs may obtain printing or copying services from Government printing plants on a reimbursable basis according to the provisions of § 556.22(c).

§ 556.28 Postal support.

POs will not use appropriated fund postage or the Military Postal Service (MPS) except as shown in table D-1. Questions regarding postal support to POs will be directed to HQDA (MPSA-ZA), ALEX VA 22331-0600.

TABLE D-1.—USE OF APF POSTAGE AND MPS

	AFP	MPS
Type 1—federally sanctioned:		
Organizations.....		
Banks.....	No ¹	Yes. ²
Credit unions.....	No.....	Yes. ²
Labor organizations.....	No.....	Yes. ³
Association of Managers and Supervisors.....	No.....	Yes. ³
United Service Organization.....	No.....	Yes. ⁴
Red Cross.....	No.....	Yes. ⁴
United Seamen's Service.....	No.....	Yes. ⁵
DOD Component relief/aid organizations.....	Yes ⁶	Yes.
Civil Air Patrol.....	Yes ⁶	N/A.
Youth organizations.....	No.....	Yes.
Other type 1.....	No.....	Yes. ³
Type 2—affiliated.....	No.....	Yes. ³
Type 3—Independent:		
All type 3 POs.....	No.....	Yes. ³

NOTES:

1. Only when using APF postage of the overseas U.S. Army Central Finance and Accounting Office for currency shipments to CONUS. Shipments within the overseas theater will include the words "DOD Official Intra-theater Mail" where the postage normally would be placed.

2. Use of MPS is authorized outside CONUS only where there is no U.S. Postal Service (USPS). Use will be limited to transactions arising from official operations for the benefit of the military installations and their personnel. All such mail entered into the MPS will bear proper postage.

3. MPS privileges are authorized outside CONUS only as follows: Where there is no USPS; if existing MPS facilities and personnel of the command permit; if the major overseas commander determines, and the MPS agency concurs, that local civil postal service is inadequate; and if the host government does not object.

4. Use of MPS is authorized outside CONUS only where there is no USPS.

5. When a U.S. Army organization is acting on behalf of these organizations.

6. Use of USAF indicia authorized per HQ USAF (AF/DAAC(S)).

§ 556.29 Other services.

POs may not use installation auditing, data processing, financial management, legal, purchasing, or other similar services. POs must obtain such support at their own expense, except in those instances when necessary for the installation commanders to perform their oversight responsibilities.

§ 556.30 Type 2 POs operating overseas.

Limited logistical support specified in AR 700-32 may be provided, on a reimbursable basis, to type 2 POs that are chartered to provide programs relating to the religious, social, welfare, and educational needs of active duty military personnel and their family members.

(a) Subject to Status of Forces or other country-to-country agreements, such support may include:

(1) Transportation services on a reimbursable basis.

(2) Commissary and exchange privileges.

(3) Armed forces postal services overseas (DODD 4525.6).

(4) Hospitalization, medical, and dental care on a reimbursable and space available basis, as determined by the medical treatment facility commander.

(5) Recreational facilities.

(6) Dependents' schools on a reimbursable and space-available basis.

(7) Utilities for facilities used in providing services to armed services personnel.

(8) Military banking facilities (MBFS) operated under DOD contracts.

(b) Before additional support is provided, the following is required:

(1) Local chapters in overseas areas must submit an application to the installation or community commander where they have been given permission to operate. The application will state specific support elements desired with reasons why the PO considers such support to be appropriate. If accepted, the local commander will endorse and forward the application to the MACOM.

(2) The endorsement will cite the services, programs, and activities being received from the PO that warrant special consideration for the PO; that the additional support authorized can be provided; and an estimate of the additional or nonroutine costs for providing that support.

(3) Application will be processed through command channels to CFSC-AE-P and will be evaluated at each level. If appropriate, HQDA will forward the application to the Office of the Secretary of Defense (OSD), which may enter into a Memorandum of Understanding (MOU) with the local PO's national headquarters.

(4) When finalized, the MOU will detail the maximum level of support to be extended to all of the affiliated chapters, regardless of overseas locations. Support will not be provided until HQDA notification of approval and implementing instructions are provided to MACOMs concerned.

Subpart E—Participation in Activities of Private Organizations (Associations)

§ 556.31 Scope.

(a) This chapter specifies policy for official participation by DA agencies, commands, and personnel in the activities of private organizations, societies, and associations, including

technical and professional societies that operate on- or off-DA installations.

(b) The following provisions do not apply to DA military or civilian personnel participating in POs as individuals, acting outside their official capacity as employees of the Federal Government. Such membership or participation is permissible as long as it complies with laws (including the Hatch Act and the Anti-Lobbying Act) and regulations that prohibit soldiers and civilian employees from engaging in activities inconsistent with their Federal employment. (See AR 600-50.)

§ 556.32 Limitations.

(a) Participation will be limited to the extent of DOD interest involved.

(b) The favoring of one organization over another will be avoided.

§ 556.33 Official participation in POs.

(a) The following situations will be avoided:

(1) Unauthorized membership in a PO by the United States or its representatives. (See 24 Comp. Gen. 814; 31 Comp. Gen. 398; 32 Comp. Gen. 15.)

(2) Participation in the management and control of POs, in an official capacity, without congressional authorization.

(3) Participation in the determinations or conclusions of POs so as to suggest compliance by the Government without subsequent responsible administrative authority or congressional authorization.

(4) If doubt exists as to whether membership of an agency is authorized in a particular PO, the case should be referred to HQDA (DAJA-AL) WASH DC 20310-2212 prior to acceptance of membership.

(b) DA agencies may participate in activities of POs in the discussion of matters of mutual interest, subject to AR 600-50 and otherwise consistent with law, including anti-trust laws and laws relating to national security. An agency representative may vote verbally or in writing on issues presented for a vote, provided it is made clear to the PO that such vote indicates no more than the opinion of that representative. No vote so cast will be considered to bind DA or any DA agency, in any way, to a particular present or future course of action.

(c) DA military and civilian personnel will not accept an honorary office or honorary membership in any trade or professional organization that includes in its membership business entities that are engaged in, or are attempting to engage in, providing goods and services to a component of DOD, including its NAFIs. An honorary office includes any

office, whether termed honorary or not, when the selection for that office is on the basis of an official DA position or assignment.

§ 556.34 Permissive TDY.

Permissive TDY for the attendance of military and civilian personnel at PO meetings will be per AR 1-211.

Appendix A to Part 556—References

Required Publications. A required publication is a publication which the reader must have in order to understand the publication.

AR 1-211

Attendance of Military and Civilian Personnel at Private Organization Meetings. (Cited in § 556.34.)

AR 37-60

Pricing for Materiel and Services. (Cited in § 556.22(c).)

AR 56-1

Management Acquisition and Use of Administrative Motor Vehicles (Cited in § 556.29.)

AR 60-20

Army and Air Force Exchange Service (AAFES) Operating Policies. (Cited in § 556.18(a).)

AR 405-80

Granting Use of Real Estate. (Cited in § 556.23.)

AR 600-20

Army Command Policy and Procedures. (Cited in § 556.9(d).)

AR 600-50

Standards of Conduct for Department of the Army Personnel. (Cited in §§ 556.6(c), 556.9(d) and 556.31.)

AR 700-32

Logistic Support of United States Nongovernmental, Nonmilitary Agencies and Individuals in Overseas Military Commands. (Cited in § 556.30.)

AR 870-20

Museums and Historical Artifacts. (Cited in § 556.18(a).)

Related Publications

A related publication is merely a source of additional information. The user does not have to read it to understand this regulation.

AR 1-100

Gifts and Donations.

AR 11-2

Internal Control Systems.

AR 108-2

Army Training and Audiovisual Support.

AR 140-488

Licenses to Use Army Reserve Facilities.

AR 190-30

Military Police Investigations.

AR 210-24

Credit Unions.

AR 210-135

Bank and Credit Unions on Army Installations.

AR 215-1

Administration of Army Morale, Welfare, and Recreation Activities and Nonappropriated Fund Instrumentalities.

AR 215-2

The Management and Operation of Army Morale, Welfare and Recreation Programs and Nonappropriated Fund Instrumentalities.

AR 360-61

Community Relations.

AR 630-5

Leave and Passes.

AR 700-83

Army Support of United Seamen's Service.

AR 930-1

Army Use of USO Services.

AR 930-4

Army Emergency Relief.

AR 930-5

American National Red Cross Service Program and Army Utilization.

AFR 46-6

Support for Civil Air Patrols.

DODI 1000.15

Private Organizations on DOD Installations.

DODD 5500.2

Policies Governing Participation of Department of Defense Components and Personnel in Activities of Private Associations.

DODD 5500.7

Standards of Conduct.

DODD 4525.6

Single Manager for Military Postal Service.

Appendix B to Part 556—Classification system for private organizations by type and subtype.

(The list is not inclusive.)

B-1. Types of private organizations

- a. Type 1—federally sanctioned.
- b. Type 2—affiliated.
- c. Type 3—independent.

B-2. Subtypes of private organizations

- a. Financial institutions.
- b. Community services, fraternal/benevolent.
- c. Labor-management organizations.
- d. Sports, hobbies, crafts.
- e. Distaff service organizations.
- f. Youth groups.
- g. Professional, scientific, and management.
- h. Religious groups.

B-3. Examples of private organizations by type and subtype

- a. Type 1—federally sanctioned. Subtypes are—
 - (1) Financial institutions.
 - (i) Banks.
 - (ii) Credit unions.
 - (2) Labor-management organizations.
 - (i) Labor organizations.

(b) Association of managers and supervisors.

(3) Community service.

(i) USO.

(ii) Red Cross.

(iii) United Seamen's Service.

(iv) Component relief/aid organizations.

(4) Youth groups.

b. Type 2—affiliated. Subtypes are—

- (1) Professional, scientific, and management.
 - (i) Engineering or scientific fraternities.
 - (ii) Associations of active duty personnel.
 - (iii) Nurses' guilds.
 - (iv) Financial management associations.
 - (v) Personnel management organizations.
- (2) Sports, hobbies, crafts.
 - (i) Affiliated hobby/craft groups.
 - (ii) Sports Officials' Association.
- (3) Community service.
 - (i) Veterans organizations.
 - (ii) Parent Teachers Association.
 - (iii) Surviving spouse/parent organizations.
 - (iv) Ethnic group affiliations.
 - (v) Reserve and retired associations.
 - (vi) Affiliated community service clubs.
- (4) Religious groups.
 - (i) Altar guild society.
 - (ii) Guilds.
 - (iii) Religious youth organizations.
- (5) Youth organizations.
 - (i) Junior Army Navy Guild Organizations (JANGO)
 - (ii) 4-H Clubs.
 - (iii) Scouting organizations.
 - (iv) Little league.
 - (6) Other affiliations.

c. Type 3—independent. Subtypes are—

- (1) Sports, hobbies, and crafts.
 - (i) Model clubs.
 - (ii) Stamp, coin, other collectors.
 - (iii) Theater and dance guilds.
 - (iv) Fish and game clubs.
 - (v) Golf leagues.
 - (vi) Bowling leagues not affiliated with national organizations. (Note: DOD has waived requirement for nationally affiliated bowling leagues to become private organizations under this regulation.)
 - (vii) Investment clubs.
- (2) Youth organizations.
 - (i) Contemporary age clubs (teens, and so forth).
 - (ii) Youth sports/recreation clubs.

(3) Professional, scientific, management. Local, independent, unaffiliated organizations.

- (4) Community service.
 - (i) Thrift shops.
 - (ii) School booster clubs.
 - (iii) Local ethnic groups.
 - (iv) Museum associations and foundations.
 - (v) Social problem study groups.
- (5) Auxiliary organizations.
 - (i) Spouses' or wives' clubs (may include thrift shop operations).
 - (ii) National origin clubs.
- (6) Religious. Local, independent, unaffiliated organizations.

Glossary

Abbreviations

AAFES. Army and Air Force Exchange Service

ACS. Army Community Services

AFR. Air Force Regulation
 APF. Appropriated funds
 CFSC. U.S. Army Community and Family Support Center
 CONUS. Continental United States
 CPR. Civilian Publication Regulation
 DA. Department of the Army
 DCSPER. Deputy Chief of Staff for Personnel
 DOD. Department of Defense
 FPM. Federal Personnel Manual
 HQDA. Headquarters, Department of the Army
 IRS. Internal Revenue Service
 MACOM. Major command
 MBFS. Military banking facilities
 MOU. Memorandum of Understanding
 MPS. Military Postal Service
 MWR. Morale, welfare and recreation
 NAF. Nonappropriated funds
 NAFL. Nonappropriated fund instrumentality
 OCONUS. Outside the continental United States
 OSD. Office of the Secretary of Defense
 POs. Private Organizations
 SJA. Staff Judge Advocate
 TDY. Temporary duty
 USPS. United States Postal Service

Terms

Audit. An official examination, verification, and correction of account books that shows the financial status of a PO.

DA installation. A location, facility, or activity assigned to, owned, leased, controlled, or occupied by DA.

DOD family. A group consisting of—
 a. Active duty military personnel.
 b. Retired military members.
 c. Members of Reserve Components.
 d. Family members and surviving spouses of personnel in a. through c. above.
 e. Local DOD civilian employees.

4. Other civilians as authorized by major commanders and installation commanders.

Double entry accounting system. A system in which both elements of each transaction (debits and credits) are—

- a. Recorded separately, and
- b. Recorded during the period of occurrence.

Gross annual revenue. The total revenue of a PO, which includes income from—

- a. Sales of goods and services.
- b. Membership assessments or dues.
- c. Contributions and donations.
- d. Interest.

Investment club. A membership that pools stated amounts of funds to invest in stock or other securities. Usually, group members pledge a regular amount to be paid into the club on a scheduled basis, for example, monthly and annually. Some clubs have a committee that gathers information on securities, selects the most promising, and recommends that the club invest in them. Other clubs rotate the investigatory responsibilities among all their members. Most require all members to vote for or against all investments, sales, exchanges, and other transactions.

Nonappropriated fund instrumentality. An integral DOD organizational unit that performs an essential Government function. It acts in its own name to provide, or assists other DOD organizations in providing, MWR programs for military personnel and authorized civilians. It is established and maintained individually or jointly by the secretaries of the military departments. As a fiscal entity, it maintains custody of and control over its NAFs and contributes to the MWR programs of organizational entities. It is not incorporated under the laws of any State or the District of Columbia. It enjoys the legal status of an instrumentality of the United States.

Nonappropriated funds. Cash and other assets received by NAFIs from sources other

than monies appropriated by the Congress of the United States.

Private organization. A self-sustaining, non-Federal entity constituted or established and operated by individuals acting outside any official capacity as officers, employees, or agents of the Federal Government or its instrumentalities. It may be incorporated or unincorporated. It may operate on or off DA installations; however, to operate on-post, the private organization must have the written consent of the installation commander or higher authority.

Qualified auditor. An auditor qualified to hold grade UA/CS 9 (or local national equivalent grades) or above in civilian job series 510 or 511, or public accountant or certified public accountant licensed by a State or other recognized licensing jurisdiction.

Single entry accounting system. A simple system of recording transactions on a cash basis. No inventories or accounts receivable or payable are kept. (Often called a combination journal system.)

Status of forces agreement. International agreement which defines status of guest forces while on the territory of the host country.

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References are to paragraph numbers except where specified otherwise. Definitions of technical terms are found in the Glossary.

AAFES, Section 556.18
 Alcoholic beverages, Section 556.8
 Boy Scouts, Sections 556.17, and 556.23
 Charitable contributions, Section 556.17
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Forest Land Federal Register

Friday
June 29, 1990

Part XII

Department of Agriculture

Forest Service

36 CFR Part 242

Department of the Interior

Fish and Wildlife Service

50 CFR Part 100

Temporary Subsistence Management
Regulations for Public Lands in Alaska;
Final Temporary Rule

DEPARTMENT OF AGRICULTURE**Forest Service****36 CFR Part 242****DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service****50 CFR Part 100**

RIN 1018-AB43

Temporary Subsistence Management Regulations for Public Lands in Alaska**AGENCY:** Forest Service, USDA; Fish and Wildlife Service, Interior.**ACTION:** Final temporary rule.

SUMMARY: This rule provides temporary regulations implementing the subsistence priority for rural residents of Alaska under Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) of 1980. The Alaska Supreme Court recently ruled that the law used by the State of Alaska to provide the subsistence priority required by Title VIII violated the Alaska Constitution. The court's action placed the State out of compliance with Title VIII. Since the State has been unable to return to compliance with Title VIII, the Federal government is required to take over the implementation of Title VIII on public lands.

EFFECTIVE DATE: July 1, 1990.

This rule will go into effect on July 1, 1990, unless, prior to that date, the State of Alaska extends its authority to continue to comply with 16 U.S.C. 3115(d). Once effective, the rule will remain in effect until December 31, 1991, unless the State reestablishes its authority to comply with the 16 U.S.C. 3115(d) and a notice suspending these regulations is published in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Glenn Ellison, Assistant Alaska Regional Director, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503; telephone (907) 786-3469. For questions specific to National Forest System lands, contact Norman Howse, Assistant Director, Subsistence, Forest Service, USDA, Alaska Region, P.O. Box 21628, Juneau, Alaska 99802; telephone (907) 586-8890.

SUPPLEMENTARY INFORMATION:**Background**

Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111-3126) requires the Secretary of the Interior and the Secretary of Agriculture (Secretaries) to implement a joint program to grant a

preference in favor of subsistence uses of fish and wildlife resources on public lands unless the State of Alaska implements a subsistence program consistent with ANILCA's requirements. The State implemented such a program which the Department of the Interior found to be consistent with ANILCA. In December 1989, however, the Alaska Supreme Court ruled in *McDowell v. State of Alaska* that the rural preference in the State subsistence statute, which is required by ANILCA, violated the Alaska Constitution. The Court stayed the effect of the decision until July 1, 1990.

As a result of that decision, the Department of the Interior and the Department of Agriculture (Departments) will be required to take over the implementation of Title VIII of ANILCA on public lands. The Fish and Wildlife Service (Service) was delegated the lead responsibility for developing a contingency plan to fulfill the Federal government subsistence responsibilities. Five departments within the Federal government are responsible for management of lands covered by Title VIII. All departments cooperatively developed these regulations. Because these regulations relate to lands managed by agencies in both the Departments of Agriculture and the Interior, identical text is hereby incorporated into 36 CFR part 242 and 50 CFR part 100.

These temporary rules impact the subsistence uses of fish and wildlife resources on public lands in Alaska managed by the Fish and Wildlife Service, National Park Service (NPS), Bureau of Land Management (BLM), USDA-Forest Service (USFS), Bureau of Indian Affairs (BIA), Air Force, Army and various other Federal land managing agencies.

On April 13, 1990, a Notice of Intent to Propose Rules was published in the Federal Register (55 FR 13922). Seventy-two written comments were received and taken into account in preparing the proposed temporary rule. On June 8, 1990 the proposed temporary regulations were published in the Federal Register (55 FR 23522) which solicited comments from the public. Because of the short time available, the opportunity for public review and comment was limited. The Fish and Wildlife Service received 152 oral and written comments in response to the proposed temporary regulations. All of these comments were taken into account in preparation of this final temporary rule.

Given the short time frame to prepare this final temporary rule, and in anticipation of the State returning to compliance with Title VIII, these

temporary regulations establish a Federal program that minimizes change to the State's program consistent with meeting the Federal government's responsibilities under Title VIII. To do otherwise would be extremely disruptive to subsistence users and create unnecessary chaos if and when the State is able to bring its subsistence program back into compliance with ANILCA. The various seasons and bag limits in effect under the State system were reviewed by the various Federal land managers. Limited changes to existing State seasons and bag limits were made. Should the Federal government be required to retain management responsibility beyond this year, changes to the seasons and bag limits will be considered according to the procedures set forth in § 16 of the regulations. Thus the Departments of Interior and Agriculture conclude that good cause exists within the meaning of 5 U.S.C. 553(d)(3) of the Administrative Procedures Act to make these regulations effective upon publication in the Federal Register.

These temporary regulations will remain in place until December 31, 1991, or until the State brings its subsistence program back into compliance with ANILCA, whichever comes first. The development of permanent regulations, which is expected to start in 1990, will involve extensive public interaction and comment throughout the regulations development process, and will be completed by December 31, 1991.

Summary of Comments

The June 8, 1990 proposed temporary regulations solicited comments for 10 days on the issues addressed therein (55 FR 23522). Public meetings were held in Anchorage, Fairbanks, Juneau, and Bethel, Alaska. There were 103 total oral comments given at the meetings, and the Service received an additional 49 written comments.

Analysis of Comments**General Comments****(a) Public Involvement**

Many comments were received that stated there should have been more public participation in developing the regulations for Federal subsistence management, that the comment period was much too short, and that more public meetings should have been held in rural communities.

Certainly more public involvement would have been desirable and valuable, and under normal circumstances would have occurred; but the time frame to develop a Federal

subsistence management program was very limited. State management of subsistence expires June 30, 1990. In the normal course of developing Federal programs, substantial internal discussion and staff work is required before public involvement can occur effectively. Consequently, the public involvement period was short. During the development of these regulations, comments were solicited when the Notice of Intent was published on April 13, 1990 and again when the proposed regulations were published on June 8, 1990. For both documents, a comment period of ten days was provided. Public meetings were held in major population centers statewide. Because these are temporary regulations, a detailed public involvement process will take place soon with the development of the permanent regulations.

(b) Alaska National Interest Lands Conservation Act

Several people commented that they felt the ANILCA subsistence preference for rural residents of Alaska was unconstitutional and objected to the establishment of these regulations which allow for rural subsistence priority. Several comments called for an amendment to ANILCA.

The Departments of the Interior and Agriculture have no authority to make such an interpretation since the rural priority is a provision of Federal law. Until such time as the law is changed, the Federal government must provide a subsistence priority to rural Alaskan residents for use of fish and wildlife resources on public lands.

Some people commented that they felt Title VIII of ANILCA was "Indian legislation" and any ambiguity must be resolved in a way that protects the Natives' subsistence uses. While Title VIII notes the importance of subsistence to Natives, it similarly notes the importance of subsistence to all rural Alaskans. Sections 803, 804, and 805 of Title VIII are racially neutral. That racial neutrality is therefore reflected in these regulations.

There were a number of comments on both sides of the issue of State of Alaska management of fish and wildlife resources. There were comments advocating "State's rights"; the State should manage all fish and wildlife resources, and the State Constitution should not be amended to provide for a rural subsistence preference. Other commenters were opposed to a rural subsistence preference regardless of whether it is State or federally managed.

On the other side of the issue, there were comments that amending the State Constitution to be in compliance with

ANILCA should be a top priority to avoid Federal management. Others feared that without a rural subsistence preference managed by either the Federal Government or the State, the subsistence lifestyle in Alaska would be jeopardized.

ANILCA mandates a priority for subsistence uses by rural residents on public lands. As long as the State of Alaska can administer this priority, the Federal Government believes it is preferable to have such management responsibility lie with the State. The temporary subsistence management regulations were written as a temporary measure in anticipation that the State will take the steps necessary to reassume subsistence management on public lands.

Additional comments were received expressing concern that the mandate of ANILCA to place a priority on subsistence use over sport and commercial use will not be implemented through Federal management.

Implementation of ANILCA, including the subsistence priority, is the responsibility of the Federal Government on public lands. The Departments of the Interior and Agriculture will implement title VIII by providing priority to subsistence use on public lands.

(c) Other Federal Laws and International Treaties

Comments were received that the regulations need to be in compliance with the Marine Mammal Protection Act (specifically regarding seals) as well as all international treaties.

As stated in § 23(n) of these regulations, the subsistence harvest of seals and other marine mammals will be subject to the provisions of the Marine Mammal Protection Act, as amended, and its implementing regulations. In addition, subsistence management under these regulations will comply with all relevant international treaties, such as those regarding halibut and migratory birds.

Subpart A—General Provisions

(a) Definition of Public Lands

There were many comments on the exclusion of navigable waters from the definition of public lands. Some comments regarding the exclusion of State-selected and Native-selected lands in the definition were received also. There was a great deal of concern that the exclusion of navigable waters eliminated the majority of subsistence fishing, critical to the well being of rural communities. Some concerns were expressed also that the sport take of

migratory species on State lands affects their numbers for subsistence purposes on public lands.

The United States generally does not hold title to navigable waters and thus navigable waters generally are not included within the definition of public lands. Navigable waters are those waters used or susceptible of being used in their ordinary condition as highways for commerce over which trade and travel are or may be conducted in the customary modes of trade and travel on water.

The scope of these regulations is limited by the definition of public lands in section 102 of ANILCA. Lands validly selected by the State or Native corporations are therefore excluded from this public lands definition.

(b) Adoption of State Regulations

There were comments on both sides of the issue of adopting State regulations for Federal subsistence management. A number of commenters said the Federal government should not automatically adopt the State regulations, while others advocated working closely with the State and adopting existing regulations.

In view of the uncertainty over the resumption of State management of subsistence, a major objective of the Federal program has been to minimize disruption to Alaskans and the State's continuing fish and game management, yet still fulfill the requirements of Title VIII. These regulations use existing State of Alaska regulations relevant to subsistence management as much as possible. The majority of seasons and bag limits and methods and means of harvest regulations in subpart D are very similar or identical to the current State regulations. State regulations promulgated prior to the effective date of the McDowell decision are presumed to fulfill the Title VIII requirements since the State's program was considered to meet the general applicability requirements of Section 805(d) of ANILCA. The relatively few changes made were to adapt the State regulations to address public lands or to conform to legal requirements, such as direction received from recent court rulings. Some changes were made in subsistence bag limits or seasons after a review revealed that existing State regulations may not provide adequate opportunity for subsistence use on public lands by rural residents.

(c) Community Season and Bag Limits

There were a number of comments advocating that the Federal government should establish community bag limits for subsistence take rather than adopt

the State's program of having only individual bag limits. There was also a concern about taking into consideration harvest for contribution to community ceremonial events.

The issue of community season and bag limits is an important issue. To address this issue requires more time, public involvement and information than was available during the development of these regulations. Community season and bag limits and ceremonial uses, e.g., funeral potlatches, will be addressed during development of permanent regulations and subsequent annual adjustments to subsistence use regulations. In addition, the Federal Government does not believe that the McDowell decision eliminated the State's ability to provide fish and wildlife for funeral potlatches.

Subpart B—Program Structure

(a) Contract with Native Corporations

Comments were expressed on both sides of the issue of contracting with non-governmental entities to help administer the subsistence management program. Most of these comments dealt specifically with the possibility of contracting with Native organizations pursuant to Public Law 93-638. Some of the comments received were in opposition to contracting with Native organizations, while others requested that Native organizations be considered as potential contractors.

Contracting is an administrative mechanism and option for accomplishing parts of the management program established by the regulations. Therefore, contracting is not addressed in these regulations. Federal agencies soon will be considering whether or not to contract certain subsistence management responsibilities to non-Federal organizations. If the decision is made to contract, the agencies must then decide which Federal subsistence management responsibilities to contract. Announcements of contract opportunities will be made publicly, if and when funds are available and decisions are made that contracting is the best mechanism to implement aspects of the subsistence management program.

(b) Local/Village/Regional Management of Fish and Wildlife

Some commenters recommended that the regulations provide for local, village, or regional management of fish and wildlife resources with Federal oversight.

ANILCA mandates that local rural people with knowledge of the conditions and requirements have a meaningful

role in the management of fish and wildlife and of subsistence uses on the public lands. That role is provided through regional advisory councils and local advisory committees.

(c) Administrative Structure

There were a great many comments on the administration of the subsistence management regulations. Many commenters advocated subsistence user representation on the Federal Subsistence Board, as well as election of this board. Other commenters expressed displeasure with the current council and committee make up and advocated a revised local/regional advisory council system.

Federal management of subsistence uses on the public lands requires an administrative structure be established to execute the Federal governments subsistence responsibilities under Title VIII. The Federal Subsistence Board (Board) is the representative of the Secretaries of Interior and Agriculture. The Board executes their responsibilities. Empowering the key Federal land managing officials, which are responsible for implementation of Title VIII, on-the-ground is believed to be the best mechanism for implementing these temporary regulations. Subsistence users' input into the process of managing subsistence on public lands is through input to, and membership on, the Regional and Local Advisory Councils and Committees. When permanent regulations are developed further consideration will be given to how the members of the Regional Advisory Councils and Local Advisory Committees are selected.

The existing State advisory system has broad responsibilities for dealing with subsistence take and uses as well as sport and commercial take statewide. These regulations require the Secretaries to review the existing resource regions, regional advisory councils and local advisory committees to determine their adequacy to fulfill the functions outlined in Section 805. This will be accomplished by December 31, 1991. If the Secretaries determine that the resource regions, Regional Advisory Councils or Local Advisory Committees are inadequate to fulfill the functions outlined in Section 805, these regulations empower the Board to establish a system of Councils and Committees, which are focused on subsistence uses specific to public lands. Public comment and participation will occur throughout the process of making the Secretaries' determination, and any subsequent actions as a result of the determination. Establishment of Councils and Committees by the Board will occur

within 12 months after the date of the Secretaries' determination if they determine that the existing regional councils or committees are inadequate to fulfill the functions in Section 805.

(d) Definition of "Healthy" Population

All comments received were in favor of maintaining healthy fish and wildlife populations, though some wanted the Federal Government to define "healthy" populations to be the same as the State's sustained yield principles or conform to requirements of Title VIII of ANILCA for the "continued viability" of such populations. Other general comments pointed out that wildlife populations are cyclic and thus uncontrollable to a large extent and that healthy populations of fish and wildlife are needed to prevent food scarcity in parts of rural Alaska.

The term "healthy populations of fish and wildlife" appears in Title VIII of ANILCA as the standard against which subsistence uses are to be regulated and fish and wildlife are to be managed. Since this term appears in Federal law, it is used instead of the State's term "sustained yield."

In practice, managing by either concept frequently produces similar conclusions about levels of fish and wildlife. Healthy fish and wildlife populations will ensure continued viability of a species. The cyclic nature and recovery patterns of certain fish or wildlife populations have become better known through past and ongoing research in Alaska. Knowing more about these resources should allow for sound management decisions resulting in healthy fish and wildlife population available for subsistence uses by rural Alaskans.

(e) Customary and Traditional Issue

(1) Comments were received that the proposed regulations should follow customary and traditional harvest seasons and patterns with those being designed to match as closely as possible the customary and traditional lifestyles of rural Alaskans, including accommodation of any religious use of fish and wildlife. Some commenters more generally that customary and traditional use should be judged by looking at prior cultural patterns of fish and wildlife use and that any decisions involving customary and traditional use should protect rural lifestyles and culture. Others stated that a subsistence priority should be given for customary and traditional uses of fish and wildlife on public lands. Some commenters would restrict the subsistence priority only to those persons using "traditional means," such as no use of aircraft, power boats,

high-powered guns, snow machines, or other technological advances. Others pointed out that the use of technological means is not the central issue; instead it is a matter of the continuity of traditional cultural patterns found in rural Alaska. Other commenters wrote in either support or opposition to restrictions about landing aircraft and shooting wildlife. Some commenters felt the State had not provided for customary and traditional uses in certain parts of Alaska, such as the Southeast and hoped that the Federal Government could correct the situation before returning management to the State.

As noted previously, the intent of these temporary regulations is to provide for the subsistence priority for rural Alaskans as required by ANILCA. Given the short time frame to prepare and implement these regulations existing State determinations of customary and traditional use were adopted. The State's customary and traditional determinations will be reviewed, as necessary, by December 31, 1991, by the Board. This review could include consideration of prior cultural patterns wherein traditional harvest seasons and patterns would be evaluated for possible changes to recent State seasons or bag limits. Also, any issues concerning customary and traditional religious use of fish and wildlife would be relevant for formal consideration, as would a wide range of other potential issues. Overall, the intent of the Federal program is to be sensitive to the customary and traditional patterns for subsistence use of fish and wildlife by rural Alaskans, meaning that Federal decisions related to this matter would try to reasonably accommodate any such use patterns. Various provisions within Title VIII of ANILCA generally allow for most types of modern or technologically advanced forms of transportation and harvest equipment on most public lands (with some exceptions for certain conservation units). These allowances made by ANILCA will continue.

(2) A wide range of comments was received related to the issues of rural designation and qualification for a subsistence preference. Some commenters preferred using population density, lifestyle, or income levels alone rather than community population for guiding rural versus non-rural determinations. Others would include urban Natives or all Alaskan residents as qualifying for a subsistence preference. Still others would restrict subsistence uses to only those persons

who practiced such uses at some prior time, such as "before the oil boom."

Other commenters felt that the proposed regulations were either inadequate, too liberal, too restrictive, or otherwise violated Federal law. Some commented, hoping that certain specific communities would be considered "rural," either continuing the State's prior designation or hoping that the Federal government would change a prior State non-rural designation. Another commenter did not understand what a rural community or area is. An additional comment urged consultation with the State in developing specific criteria to be used for determining rural and non-rural status, especially for communities with populations between 2,500 and 7,000.

As noted in § 15(b) of these regulations, population is used as a preliminary determinant in rural determinations. Community characteristics can modify the preliminary determination. These characteristics may include development of services and infrastructure, use of fish and wildlife as well as other indicators. Under ANILCA, a subsistence priority on Federal lands is to be provided only to rural Alaska residents regardless of ethnic background, meaning that Natives and non-Natives in rural areas only will receive this preference. These regulations follow the requirements of ANILCA without violation of other Federal laws or international treaties, as previously noted.

Due in part to the short time frame to prepare these regulations and to minimize public confusion, the prior State determinations of rural are adopted temporarily. As noted in § 15(b) of the regulations, the Federal Subsistence Board will review all such existing determinations no later than December 31, 1990, and shall determine the rural or non-rural status of all areas or communities in Alaska. Such communities or areas so designated as rural will be afforded a subsistence preference. The Federal Subsistence Board will consider all appropriate input from all sources, including the State of Alaska, related to criteria for determining rural or non-rural status and subsequent rural or non-rural determinations.

(3) Comments were received that the proposed regulations did not take into account barter and customary trade. Other commenters said that the Federal definition of customary trade found in the proposed regulations was either too restrictive or not restrictive enough in allowing commercial enterprise. Still

another comment questioned restricting customary trade to that which existed prior to ANILCA.

Sections 4(c) and 4(f) of these regulations address barter and customary trade, respectively, with both allowable under the definition of subsistence uses in § 4(t). The definition of customary trade related to subsistence uses is consistent with Senate Report 98-413, which noted that customary trade was not to be used for the establishment of "significant" commercial enterprises. This language is prospective. It means no new significant commercial enterprise is to be established after the passage of ANILCA, under the guise of subsistence. The restriction limiting the types and volumes of customary trade to those which existed prior to ANILCA is consistent with the ANILCA and the Senate report. Further, section 803 of ANILCA is not interpreted under these regulations to prevent trappers from selling furs taken on public lands as a subsistence activity.

(f) Closures

Many comments were received expressing concern that the temporary regulations do not allow for temporary closure of areas to sport and commercial harvest without closure to subsistence take as well.

These regulations do allow for such closures. Section 17(b) states, "In an emergency situation, the Board may direct immediate closure of public lands to any or all hunting or fishing, including subsistence take." The word "any" in this section allows the Board to close an area to sport and/or commercial harvest while allowing subsistence harvest to continue.

Subpart C—General Provisions

(a) Permits/Licenses

A number of commenters opposed the requirement for any kind of permit system, especially requiring individuals to obtain permits to use fish and wildlife resources. Commenters also objected to the requirement for State permits and licenses for subsistence take on public lands.

The intent of these regulations is to minimize Federal permit requirements. Where State and Federal season and bag limit regulations vary, Federal permits may be required to ensure that adequate subsistence opportunity is provided to rural residents while ensuring healthy fish and wildlife populations. Clarifying language has been added to the preamble.

Subpart D—Subsistence Hunting, Trapping and Fishing

(a) Halibut

There were a number of comments advocating that halibut be included for subsistence take.

Subsistence fishing for halibut is not authorized under the convention between the United States and Canada for the preservation of the halibut fishery of the Northern Pacific Ocean and Bering Sea, as amended, or by the National Marine Fisheries Service in 50 CFR part 301.

(b) Other Comments

Several general comments were expressed on a limited basis by a few people. These comments included such topics as the need for compliance with the National Environmental Policy Act; the need to shift priorities to adequately enforce the new regulations; the need to publish seasons and bags, maps of Federal lands, addresses and locations of all management offices; the need for more conservation, education, and so forth.

The Federal government appreciates these comments and will consider them in the implementation of these regulations and the development of permanent regulations.

Special Issues

The following discussion addresses specific issues or sections of the proposed temporary regulations which may be particularly confusing, controversial, require additional explanation, or elaboration of intent.

The Federal Government intends to minimize disruption to traditional State regulation and management of fish and wildlife. A high level of coordination and cooperation between the State and Federal regulatory programs is anticipated. These temporary regulations represent the provisions necessary for the Secretaries to fulfill their responsibilities for subsistence pursuant to ANILCA Title VIII, in the event conflicts arise between the State and Federal programs. If the coordination and cooperation between the State and Federal regulatory programs are realized, then many of the regulatory tools contained herein will need to be used seldom or not at all.

A Memorandum of Understanding (MOU) will be developed with the State. The MOU will address the mechanics of how the State and Federal programs will interact and coordinate. Through the MOU, the Federal program will minimize disruption to the State's regulatory program while still meeting

the Secretary's responsibilities under Title VIII.

Section —.3, Applicability and Scope. Subsistence uses are not authorized in Glacier Bay National Park, Katmai National Park, Kenai Fjords National Park, of those portions of Denali National Park originally reserved as Mt. McKinley National Park. Consequently, the prohibition of subsistence uses in those areas is clarified in § 100.3/242.3 of these regulations.

Section —.4(e), Customary Trade. Customary trade is included in ANILCA as part of the definition of subsistence uses. It is the intent of these regulations, and consistent with U.S. Senate Report No. 96-413, that customary trade not be used for the establishment of significant commercial enterprises under the guise of subsistence uses. The regulations allow for those types and volumes of customary trade of subsistence resources which existed prior to ANILCA passage. In addition, the regulations pertaining to subsistence fishing require prospective buyers and sellers of subsistence-taken fish, their parts, or their eggs to obtain a customary trade determination from the Board prior to the purchase or sale (§ —.24(d)(4)).

Section —.4(n), Public Lands. Title VIII applies to public lands, which are defined in section 102(3) of ANILCA. Lands validly selected by the State or Native corporations formed under the Alaska Native Claims Settlement Act are excluded from the public lands definition in section 102(3).

About 29.1 million acres will be conveyed to fill State and Native Corporation entitlements. However, nearly 60 million acres have been selected by the State and Native Corporations. This means approximately 31 million acres of land are over-selected and therefore will not be transferred, and will become "public lands" as defined in section 102(3) after final adjudication. Although section 906(o) of ANILCA states that Federal agencies manage both Native-selected and State-selected lands, until transferred, the Departments consider the section 102(3) public lands definition to be controlling.

Navigable waters generally are not included within the definition of public lands. Navigable waters are those rivers, streams, lakes, or other waters which are used or susceptible of being used in their ordinary condition as highways for commerce over which trade and travel are or may be conducted in the customary modes of trade and travel on water.

Section —.10, Federal Subsistence Board. Federal management of subsistence uses on the public lands requires an administrative structure be established to execute the Secretaries' subsistence responsibilities and perform functions specific to public lands. The proposed structure is the Federal Subsistence Board which will function similarly to the State Boards of Fisheries and Game. The Board will broadly execute the Secretaries' subsistence responsibilities which include: maintaining healthy fish and wildlife populations; setting Federal subsistence seasons and bag limits; making determinations of rural and non-rural communities and areas; determining customary and traditional subsistence uses; establishing and determining the membership of Regional Advisory Councils and local advisory committees specific to public lands.

Board membership is the regional or state directors of the Fish and Wildlife Service, National Park Service, USDA-Forest Service, Bureau of Land Management, and Bureau of Indian Affairs. These are the chief officials in Alaska of the primary Federal land managing agencies. These officials were chosen because of their public land management responsibilities. The Secretary of the Interior shall appoint the Chair of the Board with the concurrence of the Secretary of Agriculture.

Sections —.11 and —.12, Regional Advisory Councils and Local Advisory Committees. Councils and committees are required by ANILCA Section 805. The existing State advisory system had broad responsibilities for dealing with subsistence take and uses as well as sport and commercial take statewide. These regulations require the Secretaries to review the existing resource regions, regional advisory councils and local advisory committees to determine their adequacy for fulfilling the functions outlined in Section 805. This will be accomplished by June 30, 1990. If the Secretaries determine that the resource regions, regional advisory councils or local advisory committees are inadequate to fulfill the functions outlined in Section 805, then these regulations empower the Board to establish a system of resource regions, councils, and committees, which are focused on subsistence uses specific to public lands. Public comment and participation will occur throughout the process of making the Secretaries' determination and any subsequent actions as a result of the determination. Establishment of councils and committees by the Board will occur

within 12 months after the date of the Secretary's determination if they determine that the existing regions, councils or committees are inadequate to fulfill the functions in Section 805.

Pending the Secretaries' determination pursuant to this section, the Boards shall review the administrative record developed by the State Board of Fisheries and Game, regional advisory councils and local advisory committees and associated public comment as a temporary means of fulfilling Section 805 and gaining the input from the existing system of boards, councils and committees. Nothing in these regulations requires the Secretaries to establish a separate system of councils and committees, through they may do so if necessary to fulfill their responsibilities pursuant to Title VIII.

Section ———.14, Relationship to State Procedures and Regulation. As stated in §——.5 these regulations anticipate an interactive process between the State fish and game regulatory procedure. The State, because of its constitution, cannot provide a preference for rural residents with customary and traditional use of fish and wildlife as required by ANILCA. The State can facilitate harvest by rural residents through various regulations dealing with means and methods of take and perhaps other mechanisms.

If State regulations allow rural residents the opportunity to obtain their customary and traditional take and uses of fish and wildlife resources, the Federal regulations may closely parallel State regulations. The Federal program anticipates a highly cooperative, interactive relationship with the State system. To the extent that cooperation exists, the Federal program will be able to minimize change to traditional State regulation and management of fish and wildlife.

Section ———.15(b), Rural and Non-Rural Determinations. The definition of rural is, perhaps, the key element in these regulations. ANILCA did not define rural. The State has been wrestling with the rural definition since passage of ANILCA. The Ninth Circuit Court of Appeals ruled in 1988 that the rural definition in the State's 1986 subsistence law is not consistent with ANILCA and the common meaning of the term rural.

The legislative history of ANILCA provides some insight. Senator Report 96-413 identified Anchorage, Juneau, Fairbanks and Ketchikan as examples of non-rural communities in 1980 and Barrow, Kotzebue, Nome, Bethel and Dillingham as examples of rural

communities. It further states that the rural nature of such communities is not a static condition and can change.

The Federal government recognizes that communities of the same size may vary greatly in character for a variety of reasons. Therefore, no single population number adequately serves as a dividing line between rural and non-rural communities. The process to determine rural is designed to incorporate the common meaning of rural and is based on two rebuttable presumptions.

A community or area of less than 2,500 population is deemed rural unless it exhibits characteristics of a non-rural nature or area or is part of an urbanized area. The number 2,500 was selected because it is the figure used by the U.S. Census Bureau to divide rural from non-rural. A community between 2,500 and 7,000 bears no presumption as to its rural or non-rural status. Some communities fall in this population range which clearly appear to have rural character.

Communities 7,000 or greater in population are presumed to be non-rural. The 7,000 population level was chosen because Ketchikan, the smallest of the non-rural communities mentioned in the Senate report, was approximately that size when ANILCA was passed and consequently is an indicator of Congressional intent. Communities in Alaska can approach and may rarely exceed a population level of 7,000 and still be rural in character.

Determinations of rural or non-rural status by the State will be adopted by these regulations until December 31, 1990, unless superseded by determinations by the Federal Subsistence Board. This six month grace period will minimize confusion for existing subsistence users while allowing the Board to determine, according to the procedures in §——.16, the rural or non-rural status of communities or areas within the State.

The Board will publish the characteristics it will use in determining rural or non-rural status. Communities with populations between 2,500 and 7,000 will be reviewed before other communities.

This definition and process recognizes that population alone is not the sole indicator of a rural or non-rural community. This flexibility is consistent with approaches other Federal agencies have used to determine if communities are rural. For example, the Department of Housing and Urban Development uses a population base of 2,500 but employs indicators such as "rural in character" or "has a serious lack of mortgage credit" to include larger communities in its definition of rural.

Examples of indicators which the Federal Subsistence Board may evaluate to decide if a community is rural or nonrural in character are: fish and game use; development and diversity of the economy, transportation, communication, infrastructure, and educational and cultural institutions.

Section ———.16, Regulation Adoption Process. The process for promulgating Federal subsistence regulations specific to public lands will be similar, and at least initially, will use much of the State regulatory process. The advisory structure contemplated by Title VIII of ANILCA will be an integral part of the Federal regulatory structure. As discussed previously in §§——.11 and ———.12 regional advisory councils and local advisory committees may be established specific to Federal lands. Proposed regulations may originate from a variety of sources, but emphasis will be on the regional advisory council and local advisory committee system. While the public may comment and interact directly with the Board, it is the intent of these regulations that most public comment and interaction with the regulatory process be channelled through the councils and committees. However, during the effective period of these temporary regulations the Federal regulatory process will rely substantially on the administrative record of the State system.

Section ———.18(i). This section clarifies that an administrative appeal exists specifically for subpart D of this temporary rule. Subpart D contains extensive season and bag limit regulations which closely mirror State season and bag limits set before the McDowell decision took effect, i.e., set under State law and regulations which were considered generally applicable within the meaning of Section 805(d) of ANILCA. The Federal government believes that the regulations in subpart D provide for customary and traditional use by rural residents of fish and wildlife on public lands during the regulatory year July 1, 1990 to June 30, 1991. These regulations received extensive public input since essentially the same regulations were promulgated under the State procedures. However, since the seasons and bag limit regulations in subpart D did not receive public review under the Federal process because of time constraints, this section specifically provides for administrative appeal to the Federal Subsistence Board.

Section ———.21, Licenses, permits, harvest tickets, tags, and fees. The intent of this section is to maximize use of existing State licenses, permits,

harvest tickets, and tags. Separate Federal licenses, permits, harvest tickets or tags will only be required where the State's requirements for licenses, permits, harvest tickets or tags conflict with the Federal government's efforts to provide for subsistence preference for rural residents on public lands. In those cases the requirement for a Federal license, permit, harvest ticket or tag will replace the requirement on public lands for a comparable State authorization. During the effective period of these regulations, the instances requiring Federal authorizations are expected to be limited in number and primarily restricted to permits. No Federal licenses, permits, harvest tickets, or tags, for subsistence users are required by the temporary regulations unless specified in the annual seasons and bag limits promulgated in Subpart D.

Subpart D. Subpart D extensively adopts existing State regulations dealing with methods and means of take. The State regulations are codified in Title 5 of the Alaska Administrative Code. In many cases the language is verbatim from the State regulations. In other cases minor modifications have been made to make the regulation specific to this Federal program or Federal lands. The regulations cite the State regulations from which they were derived. These temporary regulations attempt throughout to limit change to the State regulations to that necessary to fulfill the Secretaries' responsibilities pursuant to Title VIII:

Section ——.24(a). Subsistence fishing for halibut is not authorized under the convention between the United States of America and Canada for the preservation of the halibut fishery of the Northern Pacific Ocean and Bering Sea, as amended, or by National Marine Fisheries Service in 50 CFR 301, and is, therefore, prohibited.

Section ——.24(d)(4). This section prohibits the buying or selling of subsistence-taken fish, their parts, or their eggs, unless otherwise specified. This section also provides that customary trade is authorized if, prior to the sale, the prospective seller or buyer obtains from the Federal Subsistence Board a determination that the sale would constitute customary trade.

Other Wild Renewable Resources

ANILCA Section 803 does not limit "subsistence uses" to fish and wildlife, but instead, uses the term "wild renewable resources." Vegetative resources and even water are included in this term. ANILCA Section 805(d) allows the State of Alaska to regulate take of fish and wildlife for subsistence uses on public lands if in compliance

with sections 803, 804, and 805, but does not include other renewable resources.

Federal agencies have managed these other resources through various policies and regulations. Some agencies, like NPS, BLM, and the USFS, have adopted subsistence wood harvest policies which allow subsistence harvest under a permit system. Water was treated as a subsistence resource in BLM's Central Yukon Resource Management Plan/EIS. Because of past management and the desire to avoid confusion, regulation of the use of other wild renewable resources will be left to the individual land managing agency. The various Federal land managing agencies will continue to follow existing regulations with respect to non-fish and wildlife resources. See, for example, 36 CFR 13.49.

Access

Section 811 of ANILCA addresses "Access" for subsistence as follows:

(a) The Secretary shall ensure that rural residents engaged in subsistence uses shall have reasonable access to subsistence resources on the public lands.

(b) Notwithstanding any other provisions of this Act or other law, the Secretary shall permit on the public lands appropriate use for subsistence purposes of snowmobiles, motorboats, and other means of surface transportation traditionally employed for such purposes by local residents, subject to reasonable regulation.

Generally, access by foot, snow machine, aircraft, and boat is allowed on public lands, but the use of all-terrain vehicles is on a site-specific basis. In National Parks and Park Monuments only, " * * * subsistence uses without use of aircraft as a means of access * * * is allowed (46 FR 31849, June 17, 1981). The Park Service currently provides for "certain exceptions" which are managed under special permits issued by park superintendents for unusual circumstances, such as matters involving safety.

The NPS prohibition on the use of aircraft for subsistence in national parks or park monuments is consistent with the position taken in the Federal Register notice published on June 17, 1981 (46 FR 31836). It provides for exceptions to the aircraft prohibition in individual hardship situations (46 FR 31841). A local rural resident or community who believes they qualify under the hardship criteria at 36 CFR 13.45(b)(2) may apply for a permit as provided at 36 CFR 13.51. Nothing in these rules is intended to alter the existing NPS regulations on aircraft use for subsistence.

Decisions and regulations concerning access are the responsibility of the

respective Federal land manager. Correspondingly, information on access is available from the Federal agencies for the lands they manage. Appeals on access rulings are handled according to the appeal procedures of the agency in question.

Healthy Fish and Wildlife Populations

The term healthy populations of fish and wildlife appears in Title VIII as the standard against which subsistence use is to be regulated, and fish and wildlife are to be managed. The State uses the concept of sustained yield for its fish and wildlife regulatory program. Since the term healthy fish and wildlife populations appears in ANILCA, it is used instead of the term sustained yield, when identifying the standard for managing fish and wildlife under this regulatory program, although the terms in practice are compatible. National Parks, Park Monuments, and Park Preserves are managed according to the more restrictive natural and health populations standard.

Permanent Regulations

These temporary regulations automatically expire on December 31, 1991. Consequently, the Federal government will begin development of permanent regulations shortly after the temporary regulations take effect, if the State appears to be unable to resume subsistence management on public lands in 1990. Public comment will be solicited. Public meetings will also be held in the affected areas to solicit comments. The Federal government will then revise the proposed regulations in response to public comments and agency and legislative mandates and publish them as final regulations. Once implemented, the permanent regulations would remain in effect until the State brings its subsistence program back into compliance with ANILCA.

Conformance with Statutory and Regulatory Authorities

The impact of these regulations on subsistence uses has been evaluated under section 810 of ANILCA, even though it is not clear that this is an action subject to section 810. Subsistence use and access is expected to differ little from that previously allowed under State management. The regulations are consistent with the purposes and intent of section 810 and present no significant possibility of a significant restriction on subsistence activities on public lands.

Properly regulated and managed subsistence use is consistent with the

purposes for which the various public lands in Alaska were established.

National Environmental Policy Act Compliance

The Federal assumption of subsistence management will generally maintain the status quo from the user's perspective. Responsibility and on the ground implementation will shift from State to Federal officials. Changes in environmental effects will be negligible. Therefore, the implementation of temporary regulations relative to Federal assumption of subsistence management on public lands is determined to be a categorical exclusion as detailed in the USDI Departmental Manual (516 DM 6, Appendix 1), USDA regulations at 7 CFR 16.3, USDA Forest Service Manual 1950, I.D. 2 and 17, and USDA Forest Service Handbook 1909.15, I.D. 2 and 17. In addition, the strict requirement to implement a Federal subsistence program on July 1, 1990, would have left the Departments with sufficient time within which to prepare an environmental impact statement. Not until May 8, 1990, when the State Legislature adjourned without taking action to remedy the problems created by the McDowell decision, did it become clear that the Departments would be compelled to implement a Federal subsistence program on July 1. Under the doctrine established in *Flint Ridge Development Company v. Scenic Rivers Association of Oklahoma*, 426 U.S. 776 (1976), NEPA's environmental impact statement requirement is inapplicable when preparing an EIS would require an agency to violate a deadline established by statute. Thus, even if the Departments were otherwise required to prepare an EIS on establishment of the Federal subsistence program, the need to meet the July 1 deadline would override the need to prepare an EIS.

Paperwork Reduction Act

These rules contain information collection requirements subject to Office of Management and Budget (OMB) approval under 44 U.S.C. 3501 et seq. They apply to subsistence users of public lands in Alaska.

1. Section —.18, appeals. The information collection requirements contained in this section provide a standardized process to allow individuals the opportunity to appeal decisions of the Federal Subsistence Board. Submission is voluntary, but required to receive a final determination on their appeal. The Department of the Interior estimates that an appeal will take 4 hours to prepare and submit for consideration.

2. Section —.21(b), Federal permits. The information collection requirements contained in this section provide for permit-specific subsistence activities not authorized through the general adoption of State regulations. The information requested is required to obtain subsistence benefits on Federal lands. The Department estimates that the average time necessary to obtain and comply with this permit information collection requirement is 15 minutes.

3. The remaining information collection requirements contained in this part imposed upon subsistence users are those adopted from State regulations. The information collection requirements are required to obtain subsistence benefits on Federal lands in Alaska. The Department estimates that the average burden imposed upon individuals will be 8 minutes.

The information collection requirements described above have been submitted to OMB for review.

Direct comments on the burden estimate or any other aspect of this form to: Information Collection Officer, U.S. Fish and Wildlife Service, 1849 C Street, NW., MS 224 ARLSQ, Washington, DC 20240; and the Office of Management and Budget, Paperwork Reduction Project, Washington, DC 20503. Additionally, information collection requirements may be imposed if the councils and committees subject to the Federal Advisory Committee Act are established under subpart B. Such requirements will be submitted to OMB for approval prior to their implementation.

Economic Effects

Executive Order 12291, "Federal Regulation," of February 19, 1981, requires the preparation of regulatory impact analysis for major rules. A major rule is one likely to result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices for consumers, individual industries, government agencies or geographic regions; or significant adverse effects on the ability of United States-based enterprises to compete with foreign-based enterprises. The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et seq.) requires preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations or governmental jurisdictions.

The Departments of the Interior and Agriculture have determined that this rulemaking is not a "major rule" within the meaning of Executive Order 12291, and certify that it will not have a significant economic effect on a

substantial number of small entities within the meaning of the Regulatory Flexibility Act.

This rulemaking will impose no significant costs on small entities; the exact number of businesses and the amount of trade that will result from this Federal land-related activity is unknown. The aggregate effect is an insignificant positive economic effect on a number of small entities. The number of small entities affected is unknown, but the fact that the positive effects will be seasonal in nature and will, in most cases, merely continue pre-existing uses of public lands indicates that they will not be significant.

These regulations do not meet the threshold criteria of "Federalism Effects" as set forth in Executive Order 12612. Title VIII of ANILCA requires the Secretaries to administer a subsistence preference on public lands. The scope of this program is limited by definition to certain Federal lands. Likewise, these regulations have no significant takings implication relating to any property rights as outlined by Executive Order 12630.

William Knauer, Refuges and Wildlife, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska, is the primary author of this rulemaking document.

List of Subjects

36 CFR Part 242

Administrative practice and procedure, Fish, National forests, Wildlife.

50 CFR Part 100

Administrative practice and procedure, Alaska, Fish, Public lands, Reporting and recordkeeping requirements, Wildlife.

For the reasons set out in the preamble, Chapter I, Subchapter H of Title 50 and Chapter II of Title 36 of the Code of Federal Regulations are amended by adding 36 CFR part 242 and 50 CFR part 100 to read as follows. The text of each part is identical.

PART —SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA

Sec.

Subpart A—General Provisions

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- _____ 25 [Reserved].
- _____ 26 Subsistence shellfish.

Authority: 16 U.S.C. 472, 551, 668dd et seq., 3101 et seq.; 18 U.S.C. 7, 3559, 3571; 43 U.S.C. 1733.

Subpart A—General Provisions**§ _____ 1 Purpose.**

The regulations in this part implement the Federal Subsistence Management Program on public lands within the State of Alaska.

§ _____ 2 Authority.

These regulations are issued pursuant to the Secretary of the Interior and of Agriculture authority specified in Section 814 of the Alaska National Interest Lands Conservation Act (94 Stat. 2371, Pub. L. 96-487).

§ _____ 3 Applicability and scope.

The regulations of this part _____ apply to subsistence taking and uses of fish and wildlife on all public lands in the State of Alaska, and do not supersede agency specific regulations. Subsistence uses in Glacier Bay National Park, Kenai Fjords National Park, Katmai National Park, and that portion of Denali National Park originally reserved as Mt. McKinley National Park are prohibited.

§ _____ 4 Definitions.

The following definitions apply to all regulations contained in this part unless otherwise provided in other regulations of this part.

Agency means a subunit of a cabinet level Department such as U.S. Fish and Wildlife Service, USDA-Forest Service, Bureau of Indian Affairs, Bureau of Land Management, National Park Service, Department of Army, Department of Air Force, National Marine Fisheries Service, etc.

ANILCA means the Alaska National Interest Lands Conservation Act, Pub. L. 96-487, 94 Stat. 2371, as amended.

Barter means the exchange of fish or wildlife or their parts taken for subsistence uses: For other fish, wildlife or their parts; or, for other food or for nonedible items other than money, if the exchange is of a limited and noncommercial nature.

Board means the Federal Subsistence Board as described in § _____ 10.

Council means the Regional Subsistence Advisory Councils as described in § _____ 11.

Customary and traditional use means a consistent pattern of, and reliance for subsistence purposes upon fish or wildlife or other wild renewable resources near or reasonably accessible from the users' place of residence. Customary and traditional use determinations are community or geographic area based, except that outside established subsistence resident zones in certain National Parks, Park Monuments, or Park Preserves determinations may be specific to individuals.

Customary trade means types and volumes of trade in existence among rural resident subsistence users prior to the passage of ANILCA. Customary trade does not include significant commercial enterprises established after passage of ANILCA.

Family means all persons related by blood, marriage or adoption, or any person living within the household on a permanent basis.

Federal lands means lands the title to which is in the United States.

Fish and wildlife means any member of the animal kingdom, including without limitation any mammal, fish, bird, amphibian, reptile, mollusk, crustacean, arthropod or other invertebrate, and includes any part, product, egg, or offspring thereof, or the dead body or part thereof.

Household means that group of people domiciled in the same residence.

Local resident means a rural resident with subsistence use in a specific geographic area.

Person means an individual and does not include a corporation, company, partnership, firm, association, organization, business trust or society.

Public lands means lands situated in Alaska which are Federal lands, except—

(a) land selections of the State of Alaska which have been tentatively approved or validly selected under the Alaska Statehood Act and lands which have been confirmed to, validly selected by, or granted to the Territory of Alaska

or State under any other provision of Federal law;

(b) land selections of a Native Corporation made under the Alaska Native Claims Settlement Act which have not been conveyed to a Native Corporation, unless any such selection is determined to be invalid or is relinquished; and

(c) lands referred to in section 19(b) of the Alaska Native Claims Settlement Act.

Regulatory year means July 1 through June 30.

Resident means any person who has their primary, permanent home within Alaska and whenever absent from this primary, permanent home, has the intention of returning to it. Factors demonstrating the location of a person's primary, permanent home may include, but are not limited to: the address listed on an Alaska license to drive, hunt, fish, or engage in an activity regulated by a government entity; affidavit of person or persons who know the individual; voter registration; location of residences owned, rented or leased; location of stored household goods; residence of spouse, minor children or dependents; tax documents; or whether the person claims residence in another location for any purpose. Individuals are not required to occupy a home twelve months per year to be considered resident.

Rural means any area of Alaska determined by the Board to qualify as such under the process described in § _____ 15.

Secretary means the Secretary of the Interior, except that in reference to matters related to the National Forest System, such term means the Secretary of Agriculture.

State means the State of Alaska.

Subsistence uses means the customary and traditional uses by rural Alaska residents of wild, renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation; for the making and selling of handicraft articles out of nonedible byproducts of fish and wildlife resources taken for personal or family consumption; for barter, or sharing for personal family consumption; and for customary trade.

Take or taking as used with respect to fish and wildlife, means to pursue, hunt, shoot, trap, net, capture, collect, kill, harm, or attempt to engage in any such conduct.

§ _____ 5 Federal subsistence policy, general.

The Secretary under Title VIII of ANILCA must accord a preference to

subsistence uses of fish and wildlife on public lands. It is the policy of the Department to minimize conflict between resource uses on public and non-public lands. The Board will consider the recommendations of the State regional councils and local advisory committees, public input and comment, and actions of the State Boards of Fisheries and Game, as reflected in the administrative record, as a basis for decisions related to subsistence. The Board will give full consideration to state regulatory measures for fish and game uses and, where appropriate, adopt such measures, including state seasons and bag limits. However, the Secretary reserves the discretion, as embodied in these regulations, to prescribe different regulatory measures on public lands to protect subsistence uses consistent with Section 804 of ANILCA.

§ 101.6 Information collection requirements.

(a) These rules contain information collection requirements subject to Office of Management and Budget (OMB) approval under 44 U.S.C. 3501 et seq. They apply to subsistence users of public lands in Alaska.

(1) Section 101.18, appeals. The information collection requirements contained in this section provide a standardized process to allow individuals the opportunity to appeal decisions of the Federal Subsistence Board. Submission is voluntary, but required to receive a final determination on their appeal. The Department of the Interior estimates that an appeal will take 4 hours to prepare and submit for consideration.

(2) Section 101.21(b), Federal permits. The information collection requirements contained in this section provide for permit-specific subsistence activities not authorized through the general adoption of State regulations. The information requested is required to obtain subsistence benefits on Federal lands. The Department estimates that the average time necessary to obtain and comply with this permit information collection requirement is 15 minutes.

(3) The remaining information collection requirements contained in this part imposed upon subsistence users are those adopted from State regulations. The information collection requirements are required to obtain subsistence benefits on Federal lands in Alaska. The Department estimates that the average burden imposed upon individuals will be 8 minutes.

(b) Direct comments on the burden estimate or any other aspect of this form to: Information Collection Officer, U.S.

Fish and Wildlife Service, 1849 C Street, NW., MS 224 ARLSQ, Washington, DC 20240; and the Office of Management and Budget, Paperwork Reduction Project, Washington, DC 20503. Additionally, information collection requirements may be imposed if the councils and committees subject to the Federal Advisory Committee Act are established under Subpart B. Such requirements will be submitted to OMB for approval prior to their implementation.

Subpart B—Program Structures

§ 101.10 Federal Subsistence Board.

(a) Subsistence taking and uses of fish and wildlife on public lands shall be administered by a Federal Subsistence Board.

(b) *Membership.* (1) The Board shall consist of the Alaska Regional Director, Fish and Wildlife Service; Alaska Regional Director, National Park Service; Alaska Regional Forester, USDA-Forest Service; the Alaska State Director, Bureau of Land Management; and the Alaska Area Director, Bureau of Indian Affairs. Each member of the Board may appoint a designee.

(2) The Board shall have a chair to be appointed by the Secretary of the Interior with the concurrence of the Secretary of Agriculture.

(c) *Powers and Duties.* (1) Meetings shall occur at least annually, and at such other times as deemed necessary by the Board. Meetings will normally occur at the call of the Chair, but any member may request a meeting.

(2) A quorum shall consist of three members but no action may be taken unless three members are in agreement.

(3) The Board is empowered, to the extent necessary to implement Title VIII of ANILCA, to:

(i) Promulgate regulations for the management of subsistence taking and uses of fish and wildlife on public lands;

(ii) Establish rules and procedures for the operation of the Board, the regional advisory councils and local advisory committees established pursuant to this part;

(iii) Apply a subsistence priority, as necessary for rural Alaska residents on public lands;

(iv) Assess the biological status of fish and wildlife populations used for subsistence on public lands;

(v) Determine if a harvest from populations of fish and wildlife is consistent with maintaining healthy fish and wildlife populations on public lands except NPS lands;

(vi) Make rural and non-rural determinations;

(vii) Determine which rural Alaska areas or communities have customary and traditional subsistence uses of fish and wildlife, as necessary. For areas managed by the National Park Service, where subsistence uses are allowed, the determinations may extend to individual local rural residents;

(viii) Review and respond to proposals by regional advisory councils for regulation, management plans, policies, and other matters related to subsistence taking and uses of fish and wildlife;

(ix) Close public lands to the taking of fish and wildlife authorized by State fish and game laws and regulations which may adversely affect subsistence taking and uses on those lands;

(x) Prioritize subsistence taking of fish and wildlife among users when necessary to maintain healthy fish and wildlife populations based on application of the following criteria:

(A) Customary and direct dependence upon the populations as the mainstay of livelihood;

(B) Local residency; and

(C) The availability of alternative resources.

(xi) Restrict or eliminate harvest of fish and wildlife by subsistence users if necessary to maintain healthy fish and wildlife populations, or for reasons of public safety, or administration;

(xii) Establish at least six geographic subsistence resource regions;

(xiii) Establish a regional advisory council in each subsistence resource region and appoint its members pursuant to the Federal Advisory Committee Act;

(xiv) Establish local advisory committees within the subsistence resource regions as necessary and appoint their members pursuant to the Federal Advisory Committee Act.

(xv) Such other duties as are necessary to implement the Secretary's responsibilities under Title VIII of ANILCA.

(4) The Board shall consider the reports and recommendations of the Councils concerning the subsistence take of fish and wildlife on the public lands within their respective regions. The Board may choose not to follow any recommendation which it determines is not supported by substantial evidence, violates recognized principles of fish and wildlife conservation, or would be detrimental to the satisfaction of subsistence needs. If a recommendation is not adopted, the Board shall set forth the factual basis and the reasons for the decision.

(5) The Board will establish a Staff Committee composed of personnel from

the U.S. Fish and Wildlife Service, National Park Service, USDA-Forest Service, Bureau of Land Management, and Bureau of Indian Affairs for administrative assistance. Personnel from other Federal and State agencies will be invited to participate on the Staff Committee as appropriate. The Staff Committee's functions will include, but not be limited to:

- (i) Making recommendations concerning the biological status of fish and wildlife populations;
 - (ii) Making recommendations on which communities or areas are "rural" and which have demonstrated "customary and traditional uses"; and
 - (iii) Compiling records of subsistence harvest of fish and wildlife resources.
- (6) Additional committees may be formed as necessary to assist the Board.
- (7) The Board may review and revise or rescind its actions.
- (8) The Fish and Wildlife Service shall provide appropriate administrative support for the Board.

§ _____.11 Regional advisory councils.

(a) The Secretary shall during the effective period of these regulations review and determine the adequacy, for the purposes of the Secretary's responsibilities under Title VIII of ANILCA, the existing State:

- (1) Subsistence resource regions;
- (2) Regional advisory councils; and
- (3) Local advisory committees.

(b) If the Secretary determines pursuant to paragraph (a) of this section that the subsistence resource regions, regional advisory councils or local advisory committees are inadequate to fulfill the functions described in Section 805 of ANILCA, he shall establish subsistence resource region, regional advisory councils or local advisory committees in accordance with this section and § _____.12.

(c) Pending the review and determination required by paragraph (a) of this section, the Federal Subsistence Board shall review the proposals, actions, and associated public comments contained in the administrative record produced by the existing State Boards of Fisheries and Game, Regional Advisory Councils, and local advisory committees. This review shall be an interim measure to gain the public input described in Section 805 of ANILCA.

(d) The Board shall establish a Regional Advisory Council for each subsistence resource region within 12 months from the date of the Secretary's determination pursuant to paragraph (a) of this section, if the Secretary determines existing State Regional

Advisory Councils are inadequate to meet the requirements of Section 805 of ANILCA. The Councils will provide a regional forum for the collection and expression of opinions and recommendations on matters related to subsistence taking and uses of fish and wildlife resources on public lands. The Councils will provide for public participation in the regulatory process.

(e) Establishment of Councils—Membership—

(1) The number of members of each council shall be established by the Board, and shall be an odd number. A Council member must be a resident of the region in which he/she is appointed and be knowledgeable about the region and subsistence uses therein. The Board shall solicit nominations from the public. Appointments to the Councils are made by the Board.

(2) Council members shall serve 3 year terms and may be reappointed. Initial members shall have staggered terms.

(3) The Chair of the Council shall be elected by the Council for a one year term and may be reelected.

(f) Powers and Duties—

(1) The Councils are empowered to:

- (i) Hold public meetings on fish and wildlife subsistence matters;
- (ii) Elect officers;
- (iii) In consultation with the local advisory committees in its region; review, evaluate, and make recommendations to the Board on any existing or proposed regulation, policy, or management plan, or any other matter relating to the subsistence take of fish and wildlife within or affecting its region.

(2) The Councils shall:

(i) Prepare and submit to the Board an annual report containing:

- (A) An identification of current and anticipated subsistence uses of fish and wildlife populations within the region;
- (B) An evaluation of current and anticipated subsistence needs for fish and wildlife populations within the region;

(C) A recommended strategy for the management of fish and wildlife populations within the region to accommodate such subsistence uses and needs; and

(D) Recommendations concerning policies, standards, guidelines, and regulations to implement the strategy.

(ii) Provide a forum for, and assist the local advisory committees in obtaining the opinions and recommendations of rural residents interested in subsistence taking and uses of fish and wildlife.

(iii) Attempt to develop areas of compromise and reach a regional

consensus if differences of opinion exist among the local advisory committees.

(iv) Perform other duties specified by the Board.

(3) Each Council must comply with rules of operation established by the Board.

(g) The Fish and Wildlife Service shall provide appropriate financial, technical and administrative assistance to the Councils.

§ _____.12 Local advisory committees.

(a) The Board shall establish local advisory committees as deemed necessary within each subsistence resource region, if the Secretary determines pursuant to § _____.11(a) that the existing state local advisory committees are inadequate to fulfill the requirements of ANILCA Section 805. The committees will provide a local public forum for the collection and expression of opinions and recommendations on matters related to subsistence taking and uses of fish and wildlife, may make recommendations to the councils concerning regulations, and will provide for public participation in the regulatory process to help adequately protect subsistence uses.

(b) Establishment and membership of committees—

(1) Committees and their membership shall be recommended by the Regional Councils to the Board. The membership of each committee shall be an odd number. Members must be residents of the local area, and be knowledgeable about the area and subsistence uses. Nominations will be from the Councils. Authorizations of and appointments to the committees are made by the Board.

(2) Committee members shall serve 3 year terms and may be reappointed. Initial appointments shall have staggered terms.

(3) The Chair of the committee shall be elected by the committee for a one year term and may be reelected.

(4) When considering a request by a Council to create a committee, the Board will consider:

- (i) Whether existing representation is adequate, and
- (ii) Whether participation in the Board's decision making process would be enhanced meaningfully.

(c) Powers and Duties—

(1) The committees are empowered to:

- (i) Elect officers;
- (ii) Provide a local forum for proposing regulations of subsistence taking and uses of fish and wildlife, habitat management, and assisting the Councils in obtaining the opinions and recommendations of rural residents

interested in subsistence taking and uses of fish and wildlife matters;

(iii) Develop regulatory proposals for submission to the Council;

(iv) Evaluate regulatory proposals submitted to the committees and make recommendations to the Council and Board;

(v) Advise the appropriate regional council regarding the conservation, development, and subsistence use of fish and wildlife resources;

(vi) Work with the appropriate regional council to develop subsistence management plans and harvest strategy proposals; and

(vii) Cooperate and consult with interested persons and organizations, including government agencies, to accomplish their charge.

(viii) Perform other duties specified by the Board.

(2) Committees must comply with rules of operation established by the Board.

(d) The Fish and Wildlife Service shall provide appropriate financial, technical, and administrative assistance to the committees.

§ 13 Board/agency relationships.

(a) *General.* (1) The Board, in making decisions or recommendations, shall consider and ensure compliance with specific statutory requirements regarding the management of resources on conservation system units or other public lands, recognizing that the management policies applicable to some units may entail methods of resource and habitat management and protection different from methods appropriate for other units.

(2) The Board shall promulgate a single set of regulations for subsistence taking of fish and wildlife on public lands. An agency may submit proposed regulations to the Board for inclusion. The Board is the final administrative authority on the promulgation of regulations relating to the subsistence taking of fish and wildlife on public lands, unless the Secretary at his discretion chooses to exercise his review authority.

(3) Nothing in these regulations shall abrogate the authority of individual Federal agencies to promulgate regulations necessary for the proper management of lands under their jurisdiction in accordance with ANILCA and other existing laws.

(b) Section 808 of ANILCA establishes park and park monument Subsistence Resource Commissions. Nothing in these regulations affects the appointments, duties or authorities of those Commissions.

§ 14 Relationship to state procedures and regulations.

(a) State of Alaska fish and wildlife regulations, other than subsistence regulations, apply to public lands unless the Board finds it necessary to promulgate regulations which supersede State regulations in order to ensure the opportunity for subsistence take of fish or wildlife on public lands.

(b) The Board may close public lands to hunting and fishing, or establish seasons and bag limits different from the State. Such regulations may be implemented through individual agency closure authority. Where applicable to all public lands such regulations will be promulgated by the Board. The Board may allow State closures to stand which serve to achieve the objectives of Title VIII of ANILCA.

§ 15 Board determinations.

(a) *Healthy Fish and Wildlife Populations.* Determinations of healthy populations of fish and wildlife shall be based upon the maintenance of fish and wildlife resources and their habitats in a condition which assures stable and continuing natural populations and species mix of plants and animals in relation to their ecosystems and minimizes the likelihood of irreversible or long term adverse effects upon such populations and species. Natural populations, for this section, shall include existing, nonindigenous populations. Such determinations shall also recognize that customary and traditional subsistence uses by local rural residents may be a natural part of such ecosystems. Habitat manipulation or control of other species for the purpose of maintaining subsistence uses is not authorized within National Park System Units.

(b) *Rural Determinations.* Not later than December 31, 1990, the Board shall determine the rural or non-rural status of all areas or communities within Alaska. Pending such determination each area or community will retain its rural or non-rural status pursuant to Alaska Administrative Code (5 AAC 99.014). In determining whether a particular area of Alaska is rural, the Board will use the procedures set forth in § 3.16 and use the following guidelines.

(1) A community or area with a population of 2500 or less will be deemed to be rural unless such a community or area possesses significant characteristics of a non-rural nature, or is part of an urbanized area.

(2) Communities or areas with populations between 2500 and 7000 will be determined rural or non-rural before other areas or communities are

reviewed. The characteristics identified pursuant to § 15(b)(5) will be used to make these determinations.

(3) A community with a population of 7000 or more is presumed non-rural, unless such a community or area possesses significant characteristics of a rural nature.

(4) Population data from the most recent census conducted by the United States Bureau of Census as updated by the Alaska Department of Labor will be utilized in this process.

(5) Community or area characteristics will be considered in evaluating a community's rural or non-rural status. The characteristics may include, but are not limited to: Fish and wildlife use; and development and diversity of: the economy, transportation, communication links, community infrastructure, educational and cultural institutions, and government institutions.

(6) Communities or areas which are economically, socially and communally integrated will be considered in the aggregate.

(c) *Customary and Traditional Determinations.* Not later than December 31, 1991, the Board shall determine, as necessary, customary and traditional uses of fish and wildlife by rural communities on public lands. Pending such determinations, existing determinations by the Alaska Boards of Fisheries and Game, as codified in 5 AAC, are adopted by these regulations. In making determinations of whether uses of fish and wildlife are customary and traditional, the Board may examine but not be limited to the following factors which exemplify customary and traditional use:

(1) The length, consistency and pattern of use.

(2) The degree of past and current reliance upon particular subsistence uses near or reasonably accessible from the user's place of residence.

(3) Whether current consistent use patterns provide substantial economic, cultural, social, or nutritional elements of the subsistence users' lives, as related to the importance of such uses to subsistence users' lives in the past.

(4) How the methods and means of taking relate to efficiency and economy of effort and cost, as conditioned by local circumstances, and as related to past methods and means of taking.

(5) Whether the present means of handling, preparing, preserving, and storing fish or game have been traditionally used by past generations—without excluding consideration of recent technological advances where appropriate.

(6) The passage of knowledge of fishing and hunting skills, values, and lore from generation to generation.

(7) Distribution or sharing of hunting or fishing effort, or the products of that effort (by customary trade, barter, sharing, and gift-giving), among others according to custom and tradition.

§ 16 Regulation adoption process.

(a) The public shall be provided opportunities to participate in and comment on proposed changes in the regulations. The regulation adoption process should reasonably coincide with the State of Alaska's annual process of establishing fish and game regulations.

(b) Early in the regulatory year the Board shall provide to the Councils and committees, once established, and public a schedule of the regulatory and amendment process.

(c) The committees and Councils must submit proposals to the Board in compliance with the schedule. Committee proposals must be submitted through the Councils. Proposals, however, may originate from any source; but to receive full consideration, must meet the published schedule. Proposals originating from individuals other than the Board, Councils or committees will be referred by the Board to the Councils for comments. Each Council and committee shall hold at least one public meeting per year in its region or area to solicit public comment on proposals. The public's and Councils' comments shall be forwarded to the Board in accordance with the schedule.

(d) The Board, based on comments from the Councils and public, and on resource and resource use information, shall develop draft regulations, publish a notice of availability in the Federal Register, and provide other public notice necessary to obtain public participation. A comment period of no less than 30 days shall be provided. The Board shall hold at least one public meeting to obtain public comment on the proposed regulations.

(e) Following the comment period, the final regulations shall be published in the Federal Register and will become effective on the date of publication or such later date as may be determined by the Board.

§ 17 Closures.

(a) The Board may make or direct temporary closures of subsistence taking on public lands, if necessary, for reasons of public safety, administration, or to assure the continued viability of a particular fish or wildlife population. In so doing, the Board will consult with the State, and provide adequate notice and

public hearing, including at least one hearing in the vicinity of the affected communities.

(b) In an emergency situation, the Board may direct immediate closure of public lands to any or all hunting or fishing, including subsistence take. The Board shall publish notice and reasons justifying the closure in the Federal Register and in newspapers of the area(s) affected. The closure shall be effective when made, may not exceed 60 days, and may not be extended unless it is determined, after notice and hearing, that such closure should be extended.

(c) Any closure, pursuant to Title VIII, exclusive of those made through the annual regulatory process, which does not apply to all public lands will be implemented through the regulations governing such closures by each agency which manages public land in Alaska. Public notification and involvement procedures of the involved agency(s) shall be followed.

(d) Based on emergency need for subsistence, the Board may extend or change seasons or increase bag limits. The Board may consider an emergency under this item only upon a petition from an affected rural resident or community. If such changes are granted they shall be for the minimum time period and bag limit necessary to meet the need and may be made only after a determination by the Board that the proposed change will not affect the maintenance of healthy fish and wildlife populations. The decision of the Board shall be the final administrative action.

§ 18 Appeals.

(a) Decisions of the Board are subject to requests for reconsideration.

(b) Any affected person may file a request for reconsideration.

(c) To file a request for reconsideration, the requestor must notify the Board in writing within 45 days of the date on the notice of the written decision for which reconsideration is requested.

(d) It is the responsibility of a requestor to provide the Board with sufficient narrative evidence and argument to show why a decision by the Board should be reconsidered. The following information must be included in the request for reconsideration:

(1) The requestor's name, mailing address, and daytime telephone number (if any);

(2) The decision for which reconsideration is requested and the date of that decision;

(3) A statement of how the requestor is adversely affected by the decision;

(4) A statement of the facts of the dispute, the issues raised by the request,

and specific references to any law, regulation, or policy that the requestor believes to be violated and the reason for such allegation;

(5) A statement of how the requestor would like the decision changed.

(e) Stays. (1) A decision may be implemented while the Board is reconsidering that decision unless the Board grants a stay.

(2) If a stay is desired, the stay request must accompany the request for reconsideration. The stay request must contain a description of the decision to be stayed, specific reasons why the stay should be granted including specific adverse effect(s) upon the requestor, harmful site-specific impacts or effects on resources, and how the cited effects and impacts would prevent a meaningful reconsideration of the decision.

(3) The Board must issue a written decision on a stay request within 10 calendar days of receiving a stay request.

(f) The Board shall make a final decision on a request for reconsideration within 45 days after receiving such a request. The decision of the Board is the final administrative remedy except as specified in paragraph (g) of this section. Further relief is only available through the courts.

(g) The Secretary, at his discretion, may review actions by the Board.

(h) Decisions by a Federal agency outside its role on the Board are subject to appeal under the appeal procedures of that agency.

(i) Regulations in subpart D of this rule are subject to motions for reconsideration to the Board. Such motion must be filed by September 30, 1990, according to the procedures in paragraph (d) of this section. The Board shall respond according to the procedures in paragraph (f) of this section.

Subpart C—General Requirements

§ 20 Subsistence use qualifications.

(a) The taking of fish and wildlife on public lands for subsistence uses as defined in § 4 is restricted to Alaska residents of rural areas or communities. Non-rural residents are not provided a preference for the taking of fish and wildlife on public lands.

(b) This section does not limit the authority of the Board, or individual Federal land management agencies, to further restrict the class of qualifying subsistence users in particular cases based upon specific authority in ANILCA or other Federal statutes.

§ 21 Licenses, permits, harvest tickets, tags, and fees.

(a) Persons engaged in subsistence activities related to the taking of fish and wildlife on public lands must possess State of Alaska licenses, permits, harvest tickets, and tags and must comply with reporting and validation requirements, except where such requirements conflict with Federal requirements. The intent of these regulations is to maximize the use of the State license and permit system, consistent with the sound management of fish and wildlife and fulfillment of the Secretary's Title VIII responsibilities.

(b) In addition to any licenses or permits required by paragraph (a) of this section, persons engaged in subsistence activities on public lands must possess any Federal licenses or permits that may be required for such activities.

(c) Upon request of a State or Federal law enforcement officer, individuals must produce: licenses, permits, harvest tickets, tags, or other pertinent documents required by this section; and, any apparatus designed to be, or capable of being used to harvest fish and wildlife.

§ 22 Penalties.

Any persons convicted of violating any provision of 50 CFR part 100 or 36 CFR part 242 may be punished by a fine or imprisonment or both in accordance with the penalty provisions prescribed by applicable law.

Subpart D—Subsistence Hunting, Trapping, and Fishing¹

§ 23 Subsistence hunting and trapping.

(a) Definitions. The following definitions shall apply to all regulations contained in this subpart (derived from 5 AAC 92.990):

ADF&G means Alaska Department of Fish and Game.

Aircraft means a fixed-wing machine or device that is used or intended to be used to carry persons or objects through the air, including airplanes and gliders.

Airport means an airport listed in the Federal Aviation Agency, Alaska Airman's Guide and chart supplement.

Animal means those species with a vertebral column (backbone).

Bag limit means the number of any one species permitted to be taken by any one person in the unit or portion of

a unit in which the taking occurs; however, additional numbers of a species may be taken in another designated open unit or portion of a unit where a greater limit on that species is prescribed. In no case may the total or cumulative bag for one person or designated group exceed the limit set for the unit or portion of a unit in which the additional animals are taken. A subsistence bag limit and a general bag limit for the same species are not cumulative.

Big game means black bear, brown and grizzly bear, bison, caribou, deer, elk, mountain goat, moose, musk oxen, mountain or Dall sheep, wolf and wolverine.

Bow means long bow, recurve bow, or compound bow, but not crossbow.

Broadhead means an arrowhead with two or more steel cutting edges having minimum cutting diameter of not less than seven-eighths inch.

Brow tine means a tine on the front portion of a moose antler, typically projecting forward from the base of the antler toward the nose.

Bull moose means any male moose.

Closed season means the time when wildlife may not be taken.

Cub bear means a brown or grizzly bear in its first or second year of life, or a black bear (including cinnamon and blue phases) in its first year of life.

Dire emergency means a situation in which a person:

- (a) Is in a remote area;
- (b) is involuntarily experiencing an absence of food required for sustenance;
- (c) will be unable to perform the functions necessary for survival, leading to a high risk of death or serious and permanent health problems if wild game food is not immediately taken and consumed; and
- (d) cannot expect to obtain alternative food sources in time to avoid the consequences described in paragraph (c) of this definition.

Drawing permit means a permit issued in a limited number to people who are selected by means of a lottery held for all people submitting valid applications for such persons, and who agree to abide by the conditions specified for each hunt.

Full curl horn means the horn of a male mountain or Dall sheep, the tip of at least one of which has grown through 360 degrees of a circle described by the outer surface of the horn, as viewed from the side, or that both horns are broken or that the sheep is at least eight (8) years of age as determined by horn growth annuli.

Fur animal means coyote, arctic fox, red fox, lynx, raccoon, or red squirrel, except domestically raised fur animals;

"fur animals" is a classification of animals subject to taking with a hunting license.

Furbearer means beaver, coyote, arctic fox, red fox, lynx, marten, mink, weasel, muskrat, river (land) otter, raccoon, red squirrel, flying squirrel, marmot, wolf or wolverine.

Highway means the drivable surface of any constructed road.

Household means that group of people domiciled in the same residence.

Hunting area for a species means that portion of a game management unit where a subsistence season and a bag limit for that species are set.

Motorized vehicle means a motor-driven land or water conveyance.

Open season means the time when wildlife may be taken; each period prescribed as an open season includes the first and last days of the period prescribed.

Permit hunt means a hunt for which permits are issued by drawing, registration or other means.

Poison means any substance which is toxic or poisonous upon contact or ingestion.

Registration permit means a hunting permit issued to a person who agrees to the conditions specified for each hunt; permits are issued in the order applications are received, and are issued:

- (a) Beginning on a date announced and continuing throughout the open season, or until the season is closed by emergency order when a harvested quota is reached; or
- (b) Beginning on a date announced and continuing until a predetermined number of permits has been issued.

Sealing means placing a mark or tag on a portion of an animal by an authorized representative of the ADF&G; "sealing" includes collecting and recording information concerning the conditions under which the animal was harvested and measurements of the specimen submitted for sealing or surrendering a specific portion of the animal for biological information.

Seven-eighths curl horn means the horn of a mountain sheep, the tip of which has grown through seven-eighths of a circle (315 degrees), described by the outer surface of the horn, as viewed from the side, or with both horns broken.

Skin, hide and pelt are all the same thing, and mean any tanned or untanned external covering of an animal's body: skin, hide, or pelt of a bear shall mean the entire external covering with claws attached.

Small game means all species of grouse, hares, rabbits, ptarmigan,

¹ Subpart D of this part follows existing State Fish and Game regulations which are codified in Title 5 of the Alaska Administrative Code. In many cases the language is identical to state regulation or modified so it applies only to this Federal program on public lands. The regulations note particular State provisions from which they were derived.

waterfowl, cranes and Wilson or jacksnipe.

Tine or antler point refers to any point on an antler whose length is at least one inch, and is greater in length than in width, measured in a straight line across the base.

Transport means shipping, carrying, importing, exporting, or receiving or delivering for shipment, carriage or export.

Unclassified game means all species of game not otherwise classified in the definitions.

Unit means one of the 26 geographical areas listed under game management units in the ADF&G's codified hunting, trapping and guiding regulations and the Game Management Unit Map of Alaska.

Year means calendar year unless another year is specified.

(b) Small game and unclassified game, fur animals, furbearers, big game, and waterfowl, snipe and cranes may be taken for subsistence by any method, unless prohibited below or by other Federal statute.

(1) The following methods of taking game are prohibited (derived from 5 AAC 92.080):

(i) By shooting from, on, or across a highway;

(ii) With the use of any poison;

(iii) Knowingly, or with reason to know, with the use of a helicopter in any manner, including transportation to or from the field of any unprocessed game or parts of game, any hunter or hunting gear, or any equipment used in the pursuit or retrieval of game; this paragraph does not apply to transportation of a hunter, hunting gear, or game during an emergency rescue operation in a life-threatening situation;

(iv) Unless otherwise provided in this chapter, from a mechanical vehicle, or from a motor-driven boat unless the motor has been completely shut off and the boat's progress from the motor's power has ceased, except that a motor-driven boat or snowmachine may be used to take caribou in (State Game Management Unit) Unit 23;

(v) With the use of an aircraft, snowmachine, motor-driven boat, or other motorized vehicle for the purpose of driving, herding, or molesting game;

(vi) With the use or aid of a machine gun, set gun, or a shotgun larger than 10 gauge;

(vii) With the aid of a pit, artificial light (except that coyotes may be taken in Units 6(B) and 6(C) with the aid of artificial lights), radio communication, artificial salt lick, explosive, barbed arrow, bomb, smoke, chemical, or a conventional steel trap with a jaw spread over nine inches; however, the

"conibear" style trap with a jaw spread of less than 11 inches may be used;

(viii) With a snare, except for taking unclassified game, furbearer, grouse, hare, or ptarmigan;

(ix) By intentionally feeding a bear, wolf, fox, or wolverine, or intentionally leaving human food or garbage in a manner that attracts these animals. This does not apply to bait used for trapping furbearers or hunting black bears consistent with following regulations.

(2) The following methods and means of taking big game for subsistence are prohibited in addition to the prohibitions in paragraph (b)(1) of this section (derived from 5 AAC 92.075 and 92.085):

(i) With the use of a firearm other than a shotgun, muzzle-loaded rifle without scope, or rifle or pistol using a center-firing cartridge, except that:

(A) In Unit 23, swimming caribou may be taken with a firearm using rimfire cartridges;

(B) The use of a muzzleloading rifle is prohibited for brown/black bear, moose, bison, musk ox and mountain goat unless such a firearm is .54 caliber or larger, or at least .45 caliber and a 250 grain or larger elongated slug is used;

(ii) With a crossbow in any area restricted to hunting by bow and arrow only;

(iii) With a longbow, recurve bow, or compound bow unless the bow is capable of casting a broadhead-tipped arrow at least 175 yards horizontally, the arrow is tipped with a broadhead of at least 7/8" width, and arrow and broadhead together weigh at least one ounce (437.5 grains), and the broadhead is not barbed, and for special bow and arrow hunts only the hunter must have successfully completed an ADF&G approved bowhunter education course and minimum shot placement qualification test and carries an endorsement to this on their license;

(iv) With the use of bait; except that black bears may be taken with the use of bait between April 15 and May 31, in Units 1 (A)(B) and in Units 1 (A)(B)(D), 2, 3, 5, 6, 7 (except Resurrection Creek and its tributaries), 11, 13 and 16 (except Denali State Park) 15 and 17 between April 15 and June 15; and Units 12, 19-21, 24, and 25, between April 15 and June 30. Baiting of black bears is subject to the following restrictions:

(A) Only biodegradable materials may be used for bait; only the head, bones, viscera, or skin of legally harvested fish and game may be used for bait;

(B) No person may use bait within one-quarter mile of a publicly maintained road or trail;

(C) No person may use bait within one mile of a house or other permanent dwelling, or within one mile of a

developed campground or developed recreational facility;

(D) A hunter using bait shall clearly mark the site with a sign reading "black bear bait stations" that also displays the person's hunting license number and ADF&G assigned number;

(E) A person using bait shall remove litter and equipment from the bait station site when hunting is completed;

(F) No person may give or receive remuneration for the use of a bait station, including barter or exchange of goods; however, this does not apply to license guide outfitters, who personally accompany the client at the bait station site;

(G) No person may have more than two bait stations established (bait present) at any one time;

(H) No person may establish a black bear bait station unless he or she first registers the site with ADF&G;

(v) With the aid or use of a dog, except that a dog may be used to hunt black bear by permit issued at the discretion of the ADF&G;

(vi) With the use of a trap or snare;

(vii) While a big game animal is swimming, except that a swimming caribou may be taken in Unit 23;

(viii) No person who has been airborne, except in regularly scheduled commercial jet aircraft flights, may take for subsistence uses a big game animal in a National Preserve units until 3:00 a.m. following the day in which the flying occurred.

(ix) No person who has been airborne, except in regularly scheduled commercial jet aircraft flights, may take for subsistence purposes or assist in taking a big game animal until after 3:00 a.m. following the day in which the flying occurred; however, this paragraph does not apply to subsistence taking of (a) deer, or to (b) subsistence taking of wolves during August 10-March 31 in the portions of Units 9, 17, 19, 21, 23, 24, 25(B), 25(C), and 25(D) that are not in a national preserve; additionally with respect to wolves:

(A) No person may take a wolf without first obtaining from ADF&G, a number registration permit and numbered, nontransferable locking tags;

(B) Shotguns may not be used to take wolves;

(C) A person taking a wolf shall immediately affix one of the tags to the skin of the wolf until the skin is sealed according to ADF&G procedures;

(x) From a boat in Units 1-5.

(3) The following methods and means of taking fur animals for subsistence under a hunting license are prohibited, in addition to the prohibitions in

paragraph (b)(1) of this section (derived from 5 AAC 92.090):

(i) By using a dog, trap, snare, net, or fish trap;

(ii) By disturbing or destroying a den;

(iii) By having been airborne and using a firearm to take or assist in taking an arctic or red fox until after 3:00 a.m. on the day following the day in which the flying occurred.

(4) The following methods and means of taking furbearers for subsistence under a trapping license are prohibited, in addition to the prohibitions in paragraph (b)(1) of this section (derived from 5 AAC 92.095):

(i) By disturbing or destroying a den, except that any muskrat pushup or feeding house may be disturbed in the course of trapping;

(ii) By disturbing or destroying any beaver house;

(iii) Taking beaver by any means other than a steel trap or snare, except that a firearm may be used to take beaver in Unit 18 from April 1 through June 10, and in Units 8, 22, and 23 throughout the seasons established herein;

(iv) Taking land otter with a steel trap having a jaw spread of less than five and seven-eighths inches during any closed mink and marten season in the same game management unit;

(v) Using a dog, net, or fish trap (except a blackfish or fyke trap);

(vi) Taking beaver in the Minto Flats Management Area with the use of an aircraft for ground transportation or by landing within one mile of a beaver trap or set used by the person transported;

(vii) Taking a wolf in Units 12 and 20(E) during March, April or October with a steel trap, or with a snare smaller than 3X;

(viii) Having been airborne and using a firearm to take or assist in taking an arctic fox, red fox, wolf, or wolverine until after 3:00 a.m. on the day following the day in which the flying occurred; this paragraph does not apply to a trapper using a firearm to dispatch a fox, wolf, or wolverine caught in a trap or snare;

(ix) Taking a red fox in Unit 15 by any means other than a steel trap or snare.

(5) The following methods and means of hunting waterfowl, snipe, and cranes for subsistence are prohibited, in addition to the prohibitions in paragraph (b)(1) of this section (derived from 5 AAC 92.100):

(i) With a rifle or pistol, a shotgun larger than 10 gauge, or a shotgun not plugged to 3 shell capacity;

(ii) From a motor-driven boat unless the motor has been completely shut off and the boat's progress from the motor's power has ceased;

(iii) From sunset to one-half hour before sunrise.

(c) Possession and Transportation of Wildlife (derived from 5 AAC 92.130 and 92.140):

(1) Unless otherwise provided, no person may take a species of game in any unit or portion of a unit if that person's total statewide take of that species already equals or exceeds the bag limit for that species in that unit or portion of a unit except as specified in paragraph (c)(3) of this section.

(2) The bag limit specified herein for a subsistence season for a species and the state bag limit set for a state general season for the same species are not separate and distinct. This means that a person or designated group who has taken the bag limit for a particular species under a subsistence season specified herein may not after that, take any additional animals of that species under any other bag limit specified for a State general season.

(3) The bag limit specified for a trapping season for a species and the bag limit set for a hunting season for the same species are separate and distinct. This means that a person who has taken a bag limit for a particular species under a trapping season may take additional animals under the bag limit specified for a hunting season or vice versa.

(4) The bag limit for brown bear in Unit 20(E) is one bear per regulatory year; a bear taken in this unit does not count against the one bear for every regulatory year bag limit in other units.

(5) A bag limit applies to a regulatory year unless another time period is specified in the bag limit.

(6) No person may possess, transport, or give, receive or barter game or parts of game that the person knows or should know were taken in violation of Federal or State statutes or a regulation promulgated thereunder.

(d) Evidence of sex and identity (derived from 5 AAC 92.150):

(1) No person may possess or transport a mountain sheep unless both horns accompany the animal if the subsistence take is restricted to a single sex.

(2) If the subsistence taking of a big game animal, except sheep, is restricted to one sex, no person may possess or transport the carcass of an animal unless sufficient portions of the external sex organs remain attached to indicate conclusively the sex of the animal; however, this section does not apply to the carcass of a big game animal that has been cut and placed in storage or otherwise prepared for consumption upon arrival at the location where it is to be consumed.

(3) If a moose bag limit includes an antler size or configuration restriction, no person may possess or transport the moose carcass or its parts unless both antlers accompany the carcass or its parts. A person possessing a set of antlers with less than the required number of brow lines on one antler shall leave the antlers naturally attached to the unbroken, uncut skull plate; however, this subsection does not apply to a moose carcass or its parts that have been cut and placed in storage or otherwise prepared for consumption after arrival at the place where it is to be stored or consumed.

(4) Until the hide has been sealed by a representative of the ADF&G, no person may possess or transport the hide of a brown bear taken in Unit 4 which does not have the penis sheath or vaginal orifice naturally attached to indicate conclusively the sex of the bear.

(e) A person who takes an animal that has been marked or tagged for scientific studies must, within a reasonable time, notify the ADF&G or an agency, if identified on the collar or marker, when and where the animal was killed. Any ear tag, collar, radio, tattoo, or other identification must be retained with the hide until it is sealed, if sealing is required, and in all cases any identification equipment must be returned to the ADF&G or to an agency identified on such equipment (derived from 5 AAC 92.160).

(f) Sealing of bear skins and skulls (derived from 5 AAC 92.156)

(1) As used in this section,

Bear means brown bears in all units, and black bears of all color phases taken in Units 1-7, 11-16, and 20;

Sealing certificate means a form used by the ADF&G for recording information when sealing a bear.

Temporary sealing form means a form available at ADF&G offices for providing information regarding date and location of bear kill, species of bear, name and address of the hunter, name of the guide, and other information requested by the ADF&G on the form;

(2) No person may possess, transport, or export from Alaska, the untanned skin or skull of a bear unless the skin and skull have been sealed by an authorized representative of the ADF&G within 30 days after the taking, or a lesser time if requested by the ADF&G. The seal must remain on the skin until the tanning process has commenced. A brown bear taken in Units 8 or 12 may not be transported from that unit until it has been sealed. A brown bear taken in Unit 20(E) may not be transported from that unit, except to Tok, until it has been sealed.

(3) Except as provided in paragraph (c) of this Section, a person who kills a bear must personally present the skin and the skull to an authorized representative of the ADF&G for sealing within 30 days after the taking, or a shorter time if requested by the ADF&G, and must sign the sealing certificate at the time of sealing.

(4) A person who takes a bear but is unable to present the skin and skull in person must complete and sign a temporary sealing form and ensure that the completed temporary sealing form, along with the bear skin and skull, are presented to an authorized representative of the ADF&G for sealing within 30 days after the taking.

(5) If a person kills a brown bear, while on a guided hunt or while hunting with a resident relative, the hunter, as well as the guide or resident relative who accompanied the hunter, shall sign the sealing certificate. If a temporary sealing form is used, the hunter, as well as the guide or resident relative, shall sign the temporary sealing form.

(6) A person who possesses a bear shall keep the skin and skull together until a representative of the ADF&G has removed a rudimentary premolar tooth from the skull and sealed both the skull and the skin. The ADF&G may require that the skull of the bear be skinned and that the skin and skull not be frozen at the time of sealing.

(7) No person may falsify any information required on the sealing certificate or temporary sealing form provided by the ADF&G.

(g) Sealing of Martin, Lynx, Beaver, Otter, Wolf, and Wolverine (derived from 5 AAC 92.170).

(1) No person may possess, transport, or export from the state the untanned skin of a marten taken in Units 1-5, 7, and 15, or the untanned skin of a lynx, beaver, land otter, wolf, or wolverine, whether taken inside or outside the state, unless the ADF&G has sealed the skin. The seal must remain on the skin until the tanning process has commenced or the skin has been transported from the state; however, the seal may be removed from the skin of a marten taken in Units 1-5 when the skin has been prepared for shipment from the state.

(2) The sealing of marten, lynx, beaver, land otter, wolf, or wolverine must be accomplished as follows:

(i) Wolf (in Unit 15(A)) taken by hunting or trapping must be sealed on or before the 5th day after the date of taking;

(ii) Wolf (except in Unit 15(A)), wolverine, and lynx taken by hunting must be sealed on or before the 30th day after the date of taking;

(iii) Marten (Units 1-5, 7, and 15 only), wolf (except in Unit 15(A)), wolverine, lynx, beaver, and otter taken by trapping must be sealed on or before the 30th day after the close of the season on or before the 30th day after the close of the season in the unit where taken.

(3) The sealing periods described in paragraph (g)(2) of this section may be temporarily reduced by an authorized employee of the ADF&G.

(4) A person who takes a species listed in paragraph (g)(2) of this section must bring the skin for sealing to an authorized representative of the ADF&G and must complete a report on a form provided by the ADF&G.

(h) No person may use game as food for a dog or furbearer, or as bait, except for the following (derived from 5 AAC 92.210):

(1) The hide, skin, viscera, head, or bones of game;

(2) The skinned carcass of a furbearer or fur animal;

(3) Red squirrels and small game; however, the breast meat of small game birds may not be used as animal food or bait;

(4) Legally taken unclassified game.

(i) The following definitions shall apply to this paragraph (derived from 5 AAC 92.220):

Edible meat means, in the case of big game animals, the meat of the ribs, neck, brisket, front quarters as far as the juncture of the humerus and radius-ulna (knee), hindquarters as far as the distal joint of the tibia-fibula (stifle joint) and that portion of the animal between the front and hindquarters; in the case of wild fowl, the meat of the breast; however, edible meat of big game, wild fowl or fish does not include: meat of the head; meat that has been damaged and made inedible by the method of taking, bones, sinew and incidental meat reasonably lost as a result of boning or a close trimming of the bones; or viscera.

Wild fowl means species of wild bird for which seasons or bag limits have been established by State or Federal law.

(j) A person taking game for subsistence shall salvage the following parts for human use:

(1) The hide of a wolf, wolverine, coyote, fox, lynx, marten, mink, weasel and land otter, and the hide or meat of a beaver or muskrat;

(2) The hide, skull and edible meat of a brown bear;

(3) The hide, skull and edible meat of a black bear.

(k) A person who kills a big game animal or a species of wild fowl may not intentionally, knowingly, recklessly, or with criminal negligence fail to salvage

for human consumption the edible meat of the animal or fowl.

(l) Failure to salvage or possess the edible meat may not be a violation if due to circumstances beyond the control of a person, including theft of the animal or fowl, unanticipated weather conditions or other acts of God, or unavoidable loss in the field to another wild animal.

(m) If a person is convicted of violating this section and in the course of that violation failed to salvage from a big game animal at least the hindquarters as far as the distal joint of the tibia-fibula (stifle joint), the court shall impose a sentence of imprisonment of not less than seven consecutive days and a fine of not less than \$2,500.

(n) It is unlawful for a person to possess the horns or antlers of a big game animal that was killed after the opening of the current or most recent lawful season for the animal unless the person also possesses the edible meat of the animal. However, this does not apply to the acquisition of the horns or antlers as a gift after the edible meat of the big game animal was salvaged, or the edible meat is no longer present due to personal consumption.

(o) Subsistence taking of fish or wildlife shall not be considered an emergency taking. Situations where emergency taking of wildlife are allowed are defined in paragraph (a)(13) of this Section.

(p)(1) Nothing in this subpart prohibits a person from taking wildlife in defense of life or property if (derived from 5 AAC 92.410):

(i) The necessity for the taking is not brought about by harassment or provocation of the animal or an unreasonable invasion of the animal's habitat;

(ii) the necessity for the taking is not brought about by the improper disposal of garbage or a similar attractive nuisance; and

(iii) all other practicable means to protect life and property are exhausted before the animal is taken.

(2) Wildlife taken in defense of life or property is the property of the State and is not a subsistence taking. A person taking such wildlife is required to salvage immediately the meat, or, in the case of a black bear, wolf, wolverine, or coyote, the hide including claws and surrender it to the State immediately. All bear hides surrendered (brown or black) must include claws. In the case of brown or grizzly bear, the hide and skull must be salvaged and surrendered to the State immediately. The person taking the wildlife must notify the ADF&G of the taking immediately and must submit

a written report of the circumstances of the taking of wildlife in defense of life or property to the ADF&G within 15 days of the taking. As used in this section, "property" is limited to:

- (i) A dwelling, permanent or temporary.
- (ii) An aircraft, boat, automobile, or other means of conveyance;
- (iii) A domesticated animal.
- (iv) Other property of substantial value necessary for the livelihood or survival of the owner. Game taken by hunters is not "property" in the sense of this regulation.

(q) Subsistence harvest of Endangered or Threatened species will conform to provisions of the Endangered Species Act, as amended, and its implementing regulations.

(r) Subsistence harvest of Marine Mammals will conform to the provisions of the Marine Mammal Protection Act, as amended, and its implementing regulations.

(s) Game management unit descriptions.

(1) Game Management Unit 1 consists of all mainland drainages from Dixon Entrance to Cape Fairweather, and those islands east of the center line of Clarence Strait from Dixon Entrance to Camano Point and all islands in Stephens Passage and Lynn Canal north of Taku Inlet;

(i) Unit 1(A) consists of all drainages south of the latitude of Lemesurier Point including all drainages into Behm Canal and excluding all drainages of Ernest Sound;

(ii) Unit 1(B) consists of all drainages between the latitude of Lemesurier Point and the latitude of Cape Fanshaw, including all drainages of Ernest Sound and Farragut Bay, and including the islands east of the center lines of Frederick Sound, Dry Strait (between Sergief and Kadin Islands), Eastern Passage, Blake Channel (excluding Blake Island), Ernest Sound and Seward Passage;

(iii) Unit 1(C) consists of that portion of Unit 1 draining into Stephens Passage and Lynn Canal north of Cape Fanshaw and south of the latitude of Eldred Rock, including Berner's Bay, Sullivan Island, and all mainland portions north of Chichagof Island and south of the latitude of Eldred Rock, and excluding drainages into Farragut Bay;

(iv) Unit 1(D) consists of that portion of Unit 1 north of the latitude of Eldred Rock, excluding Sullivan Island and the drainages of Berners Bay;

(2) Game Management Unit 2 consists of Prince of Wales Island and all islands west of the center lines of Clarence Strait and Kashevarof Passage, south and east of the center lines of Sumner

Strait, and east of the longitude of the westernmost point on Warren Island;

(3) Game Management Unit 3 consists of all islands west of Unit 1(B), north of Unit 2, south of the center line of Frederick Sound, and east of the center line of Chatham Strait, including Coronation, Kuiu, Kupreanof, Mitkof, Zarembo, Kashevarof, Woronkofski, Etolin, Wrangell, and Deer Islands;

(4) Game Management Unit 4 consists of all islands south and west of Unit 1(C) and north of Unit 3, including Admiralty, Baranof, Chichagof, Yakobi, Inian, Lemesurier, and Pleasant Islands;

(5) Game Management Unit 5 consists of all Gulf of Alaska drainages and islands between Cape Fairweather and the center line of Icy Bay, including the Guyot Hills;

(i) Unit 5(A) consists of all drainages east of Yakutat Bay, Disenchantment Bay, and the eastern edge of Hubbard Glacier, and includes the islands of Yakutat and Disenchantment Bays;

(ii) Unit 5(B) consists of the remainder of Unit 5;

(6) Game Management Unit 6 consists of all Gulf of Alaska and Prince William Sound drainages from the center line of Icy Bay (excluding the Guyot Hills) to Cape Fairfield, including Kayak, Hinchinbrook, Montague, and adjacent islands, and Middleton Island, but excluding the Copper River drainage upstream from Miles Glacier, and excluding the Nellie Juan and Kings River drainages;

(i) Unit 6(A) consists of Gulf of Alaska drainages east of Palm Point near Katalla, including Kanak, Wingham, and Kayak Islands;

(ii) Unit 6(B) consists of Gulf of Alaska and Copper River Basin drainages west of Palm Point near Katalla, east of the west bank of the Copper River, and east of a line from Flag Point to Cottonwood Point;

(iii) Unit 6(C) consists of drainages west of the west bank of the Copper River, and west of a line from Flag Point to Cottonwood Point, and drainages east of the east bank of Rude River and drainages into the eastern shore of Nelson Bay and Orca Inlet;

(iv) Unit 6(D) consists of the remainder of Unit 6;

(7) Game Management Unit 7 consists of Gulf of Alaska drainages between Gore Point and Cape Fairfield, including the Nellie Juan and Kings River drainages, and including the Kenai River drainage upstream from the Russian River, the drainages into the south side of Turnagain Arm west of and including the Portage Creek drainage, and east of 150° W. long., and all Kenai Peninsula drainages east of 150° W. long., from Turnagain Arm to the Kenai River;

(8) Game Management Unit 8 consists of all islands southeast of the centerline of Shelikof Strait, including Kodiak, Afognak, Whale, Raspberry, Shuyak, Spruce, Marmot, Sitkalidak, Amook, Uganik, and Chirikof Islands, the Trinity Islands, the Semidi Islands, and other adjacent islands;

(9) Game Management Unit 9 consists of the Alaska Peninsula and adjacent islands, including drainages east of False Pass, Pacific Ocean drainages west of and excluding the Redoubt Creek drainage, drainages into the south side of Bristol Bay, drainages into the north side of Bristol Bay east of Etolin Point, and including the Sanak and Shumagin Islands;

(i) Unit 9(A) consists of that portion of Unit 9 draining into Shelikof Strait and Cook Inlet between the southern boundary of Unit 16 (Redoubt Creek) and the northern boundary of Katmai National Park and Preserve;

(ii) Unit 9(B) consists of the Kvichak River drainage;

(iii) Unit 9(C) consists of the Alagnak (Branch) River drainage, the Naknek River drainage, and all land and water within Katmai National Park and Preserve;

(iv) Unit 9(D) consists of all Alaska Peninsula drainages west of a line from the southernmost head of Port Moller to the head of American Bay, including the Shumagin Islands and other islands of Unit 9 west of the Shumagin Islands;

(v) Unit 9(E) consists of the remainder of Unit 9;

(10) Game Management Unit 10 consists of the Aleutian Islands, Unimak Island and the Pribilof Islands;

(11) Game Management Unit 11 consists of that area draining into the headwaters of the Copper River south of Suslota Creek and the area drained by all tributaries into the east bank of the Copper River between the confluence of Suslota Creek with the Slana River and Miles Glacier;

(12) Game Management Unit 12 consists of the Tanana River drainage upstream from the Robertson River, including all drainages into the east bank of the Robertson River, and the White River drainage in Alaska, but excluding the Ladue River drainage;

(13) Game Management Unit 13 consists of that area westerly of the east bank of the Copper River and drained by all tributaries into the west bank of the Copper River from Miles Glacier and including the Slana River drainages north of Suslota Creek; the drainages into the Delta River upstream from Falls Creek and Black Rapids Glacier; the drainages into the Nenana River upstream from the southeast corner of

Denali National Park at Windy; the drainage into the Susitna River upstream from its junction with the Chulitna River; the drainage into the east bank of the Chulitna River upstream to its confluence with Tokositna River; the drainages of the Chulitna River (south of Denali National Park) upstream from its confluence with the Tokositna River; the drainages into the north bank of the Tokositna River upstream to the base of the Tokositna Glacier; the drainages into the Tokositna Glacier; the drainages into the east bank of the Susitna River between its confluences with the Talkeetna and Chulitna Rivers; the drainages into the north bank of the Talkeetna River; the drainages into the east bank of the Chickaloon River; the drainages of the Matanuska River above its confluence with the Chickaloon River;

(i) Unit 13(A) consists of that portion of Unit 13 bounded by a line beginning at the Chickaloon River bridge at Mile 77.7 on the Glenn Highway, then along the Glenn Highway to its junction with the Richardson Highway, then south along the Richardson Highway to the foot of Simpson Hill at Mile 111.5, then east to the east bank of the Copper River, then northerly along the east bank of the Copper River to its junction with the Gulkana River, then northerly along the west bank of the Gulkana River to its junction with the West Fork of the Gulkana River, then westerly along the west bank of the West Fork of the Gulkana River to its source, an unnamed lake, then across the divide into the Tyone River drainage, down an unnamed stream into the Tyone River, then down the Tyone River to the Susitna River, then down the southern bank of the Susitna River to the mouth of Kosina Creek, then up Kosina Creek to its headwaters, then across the divide and down Aspen Creek to the Talkeetna River, then southerly along the boundary of Unit 13 to the Chickaloon River bridge, the point of beginning;

(ii) Unit 13(B) consists of that portion of Unit 13 bounded by a line beginning at the confluence of the Copper River and the Gulkana River, then up the east bank of the Copper River to the Gakona River, then up the Gakona River and Gakona Glacier to the boundary of Unit 13, then westerly along the boundary of Unit 13 to the Susitna Glacier, then southerly along the west bank of the Susitna Glacier and the Susitna River to the Tyone River, then up the Tyone River and across the divide to the headwaters of the West Fork of the Gulkana River, then down the West Fork of the Gulkana River to the

confluence of the Gulkana River and the Copper River, the point of beginning;

(iii) Unit 13(C) consists of that portion of Unit 13 east of the Gakona River and Gakona Glacier;

(iv) Unit 13(D) consists of that portion of Unit 13 south of Unit 13(A);

(v) Unit 13(E) consists of the remainder of Unit 13;

(14) Game Management Unit 14 consists of drainages into the north side of Turnagain Arm west of and excluding the Portage Creek drainage, drainages into Knik Arm excluding drainages of the Chickaloon and Matanuska Rivers in Unit 13, drainages into the north side of Cook Inlet east of the Susitna River, drainages into the east bank of the Susitna River downstream from the Talkeetna River, and drainages into the south bank of the Talkeetna River;

(i) Unit 14(A) consists of drainages in Unit 14 bounded on the west by the Susitna River, on the north by Willow Creek, Peters Creek, and by a line from the head of Peters Creek to the head of the Chickaloon River, on the east by the eastern boundary of Unit 14, and on the south by Cook Inlet, Knik Arm, the south bank of the Knik River from its mouth to its junction with Knik Glacier, across the face of Knik Glacier and along the north side of Knik Glacier to the Unit 6 boundary;

(ii) Unit 14(B) consists of that portion of Unit 14 north of Unit 14(A);

(iii) Unit 14(C) consists of that portion of Unit 14 south of Unit 14(A);

(15) Game Management Unit 15 consists of that portion of the Kenai Peninsula and adjacent islands draining into the Gulf of Alaska, Cook Inlet and Turnagain Arm from Gore Point to the point where longitude line 150° 00' W. crosses the coast line of Chickaloon Bay in Turnagain Arm, including that area lying west of longitude line 150° 00' W. to the mouth of the Russian River, thence southerly along the Chugach National Forest boundary to the upper end of Upper Russian Lake; and including the drainages into Upper Russian Lake west of the Chugach National Forest boundary;

(i) Unit 15(A) consists of that portion of Unit 15 north of the Kenai River and Skilak Lake;

(ii) Unit 15(B) consists of that portion of Unit 15 south of the Kenai River and Skilak Lake, and north of the Kasilof River, Tustumena Lake, Glacier Creek, and Tustumena Glacier;

(iii) Unit 15(C) consists of the remainder of Unit 15;

(16) Game Management Unit 16 consists of the drainages into Cook Inlet between Redoubt Creek and the Susitna River, including Redoubt Creek

drainage, Kalgin Island, and the drainages on the west side of the Susitna River (including the Susitna River) upstream to its junction with the Chulitna River; the drainages into the west side of the Chulitna River (including the Chulitna River) upstream to the Tokositna River, and drainages into the south side of the Tokositna River upstream to the base of the Tokositna Glacier, including the drainage of the Kanitula Glacier;

(i) Unit 16(A) consists of that portion of Unit 16 east of the east bank of the Yentna River from its mouth upstream to the Kahiltina River, east of the east bank of the Kahiltina River, and east of the Kahiltina River;

(ii) Unit 16(B) consists of the remainder of Unit 16;

(17) Game Management Unit 17 consists of drainages into Bristol Bay and the Bering Sea between Etolin Point and Cape Newenham, and all islands between these points, including Hagemeister Island and the Walrus Islands;

(i) Unit 17(A) consists of the drainages between Cape Newenham and Cape Constantine, and Hagemeister Island and the Walrus Islands;

(ii) Unit 17(B) consists of the Nushagak River drainage upstream from and including the Mulchatna River drainage, and the Wood River drainage upstream from the outlet of Lake Beverley;

(iii) Unit 17(C) consists of the remainder of Unit 17;

(18) Game Management Unit 18 consists of that area draining into the Yukon and Kuskokwim Rivers downstream from a straight line drawn between Lower Kalskag and Paimiut and the drainages flowing into the Bering Sea from Cape Newenham on the south to and including the Pastolik River drainage on the north; Nunivak, St. Matthews, and adjacent islands between Cape Newenham and the Pastolik River;

(19) Game Management Unit 19 consists of the Kuskokwim River drainage upstream from Lower Kalskag;

(i) Unit 19(a) consists of the Kuskokwim River drainage downstream from and including the Moose Creek drainage on the north bank and downstream from and including the Stony River drainage on the south bank, excluding Unit 19(B);

(ii) Unit 19(B) consists of the Aniak River drainage upstream from and including the Salmon River drainage, the Holitna River drainage upstream from and including the Bakbuk Creek drainage, that area south of a line from the mouth of Bakbuk Creek to the radar

dome at Sparrevohn Air Force Base, including the Hoholtna River drainage upstream from that line, and the Stony River drainage upstream from and including the Can Creek drainage;

(iii) Unit 19(C) consists of that portion of Unit 19 south and east of a line from Benchmark M#1.26 (approximately 1.26 miles south of the northwest corner of the original Mt. McKinley National Park boundary) to the peak of Lone Mountain, then due west to Big River, including the Big River drainage upstream from that line, and including the Swift River drainage upstream from and including the North Fork drainage;

(iv) Unit 19(D) consists of the remainder of Unit 19;

(20) Unit 20 consists of the Yukon River drainage upstream from and including the Tozitna River drainage to and including the Hamlin Creek drainage, drainages into the south bank of the Yukon River upstream from and including the Charley River drainage, the Ladue River and Fortymile River drainages and the Tanana River drainage north of the Unit 13 and downstream from the east bank of the Robertson River;

(i) Unit 20(A) consists of that portion of Unit 20 bounded on the south by the Unit 13 boundary, bounded on the east by the west bank of the Delta River, bounded on the north by the north bank of the Tanana River from its confluence with the Delta River downstream to its confluence with the Nenana River, and bounded on the west by the east bank of the Nenana River;

(ii) Unit 20(B) consists of drainages into the north bank of the Tanana River from and including Hot Springs Slough upstream to and including the Banner Creek drainage;

(iii) Unit 20(C) consists of that portion of Unit 20 bounded on the east by the east bank of the Nenana River and on the north by the north bank of the Tanana River downstream from the Nenana River;

(iv) Unit 20(D) consists of that portion of Unit 20 bounded on the east by the east bank of the Robertson River and on the west by the west bank of the Delta River, and drainages into the north bank of the Tanana River from its confluence with the Robertson River downstream to, but excluding, the Banner Creek drainage;

(v) Unit 20(E) consists of drainages into the south bank of the Yukon River upstream from and including the Charley River drainage, and the Ladue River drainage;

(vi) Unit 20(F) consists of the remainder of Unit 20;

(21) Game Management Unit 21 consists of drainages into the Yukon

River upstream from Paimiut to but not including the Tozitna River drainage on the north bank, and to but not including the Tanana River drainage on the south bank, and excluding the Koyukuk River drainage upstream from the Dulbi River drainage;

(i) Unit 21(A) consists of the Innoko River drainage upstream from and including the Iditarod River drainage, and the Nowitna River drainage upstream from the Little Mud River;

(ii) Unit 21(B) consists of the Yukon River drainage upstream from Ruby and east of the Ruby-Poorman Road, downstream from and excluding the Tozitna River and Tanana River drainages, and excluding the Nowitna River drainage upstream from the Little Mud River, and excluding the Melozitna River drainage upstream from Grayling Creek;

(iii) Unit 21(C) consists of the Melozitna River drainage upstream from Grayling Creek, and the Dulbi River drainage upstream from and including the Cottonwood Creek drainage;

(iv) Unit 21(D) consists of the Yukon River drainage from and including the Blackburn Creek drainage upstream to Ruby, including the area west of the Ruby-Poorman Road, excluding the Koyukuk River drainage upstream from the Dulbi River drainage, and excluding the Dulbi River drainage upstream from Cottonwood Creek;

(v) Unit 21(E) consists of the Yukon River drainage from Paimiut upstream to but not including the Blackburn Creek drainage, and the Innoko River drainage downstream from the Iditarod River drainage;

(22) Game Management Unit 22 consists of Bering Sea, Norton Sound, Bering Strait, Chukchi Sea, and Kotzebue Sound drainages from, but excluding, the Pastolik River drainage in southern Norton Sound to, but not including, the Goodhope River drainage in Southern Kotzebue Sound, and all adjacent islands in the Bering Sea between the mouths of the Goodhope and Pastolik Rivers;

(i) Unit 22(A) consists of Norton Sound drainages from, but excluding, the Pastolik River drainage to, and including, the Ungalik River drainage, and Stuart and Besboro Islands;

(ii) Unit 22(B) consists of Norton Sound drainages from, but excluding, the Ungalik River drainage to, and including, the Topkok Creek drainage;

(iii) Unit 22(C) consists of Norton Sound and Bering Sea drainages from, but excluding, the Topkok Creek drainage to, and including, the Tisuk River drainage, and King and Sledge Islands;

(iv) Unit 22(D) consists of that portion of Unit 22 draining into the Bering Sea north of but not including the Tisuk River to and including Cape York, and St. Lawrence Island;

(v) Unit 22(E) consists of Bering Sea, Bering Strait, Chukchi Sea, and Kotzebue Sound drainages from Cape York to, but excluding, the Goodhope River drainage, and including Little Diomed Island and Fairway Rock;

(23) Game Management Unit 23 consists of Kotzebue Sound, Chukchi Sea, and Arctic Ocean drainages from and including the Goodhope River drainage to Cape Lisburne;

(24) Game Management Unit 24 consists of the Koyukuk River drainage upstream from but not including the Dulbi River drainage;

(25) Game Management Unit 25 consists of the Yukon River drainage upstream from but not including the Hamlin Creek drainage, and excluding drainages into the south bank of the Yukon River upstream from the Charley River;

(i) Unit 25(A) consists of the Hodzana River drainage upstream from the Narrows, the Chandalar River drainage upstream from and including the East Fork drainage, the Christian River drainage upstream from Christian, the Sheenjek River drainage upstream from and including the Thluichohnjek Creek, the Coleen River drainage, and the Old Crow River drainage;

(ii) Unit 25(B) consists of Little Black River drainage upstream from but not including the Big Creek drainage, the Black River drainage upstream from and including the Salmon Fork drainage, the Porcupine River drainage upstream from the confluence of the Coleen and Porcupine Rivers, and drainage into the north bank of the Yukon River upstream from Circle, including the islands in the Yukon River;

(iii) Unit 25(C) consists of drainages into the south bank of the Yukon River upstream from Circle to the Subunit 20(E) boundary, the Birch Creek drainage upstream from the Steese Highway bridge (milepost 147), the Preacher Creek drainage upstream from and including the Rock Creek drainage, and the Beaver Creek drainage upstream from and including the Moose Creek drainage;

(iv) Unit 25(D) consists of the remainder of Unit 25;

(26) Game Management Unit 26 consists of Arctic Ocean drainages between Cape Lisburne and the Alaska-Canada border, including the Firth River drainage within Alaska;

(i) Unit 26(A) consists of that portion of Unit 26 lying west of the Itkillik River

drainage, and west of the east bank of the Colville River between the mouth of the Itkillik River and the Arctic Ocean;

(ii) Unit 26(B) consists of that portion of Unit 26 east of Unit 26(A), west of the west bank of the Canning River and west of the west bank of the Marsh Fork of the Canning River;

(iii) Unit 26(C) consists of the remainder of Unit 26.

(t) Public lands within the following areas are closed to subsistence take or subsistence take is restricted as specified.

(1) Unit 1(A). (i) In the Ketchikan area, a strip one-fourth mile wide on each side of the Tongass Highway system, including the Ward, Connel, and Harriet Hunt Lake Roads, is closed to the taking of big game;

(ii) in the Hyder area, the Salmon River drainage downstream from the Riverside Mine, excluding the Thumb Creek drainage, is closed to the taking of bears;

(2) Unit 1(B). The Anan Creek drainage is closed to the taking of black bears;

(3) Unit 1(C). (i) Unit 1(C) is closed to the taking of snow geese;

(ii) in the Juneau area, that area between the coast and a line one-fourth mile inland of the following road systems is closed to the taking of big game: Glacier Highway from Mile 0 to Mile 24 at Peterson Creek, Douglas Highway from the Douglas city limits to Milepost 7 on the North Douglas Highway, Mendenhall Loop Road, and Thane Road;

(iii) the area within one-fourth mile of Mendenhall Lake, the U.S. Forest Service Mendenhall Glacier Visitor's Center, and the Center's parking area, is closed to hunting;

(iv) the area of Mt. Bullard bounded by the Mendenhall Glacier, Nugget Creek from its mouth to its confluence with Goat Creek, and a line from the mouth of Goat Creek north to the Mendenhall Glacier, is closed to the taking of mountain goat;

(v) Auke Lake is closed to the taking of waterfowl;

(vi) Mt. Juneau drainage, bounded by the Glacier Highway, Salmon Creek and its reservoir, a line from the head of the Salmon Creek drainage to the head of Granite Creek, and down Granite Creek and Gold Creek to the Glacier Highway, is closed to the taking of mountain goat;

(4) Unit 1(D). A strip one-fourth mile wide on each side of the Lutak Road between Mile 7 and Chilkoot Lake, and from the Chilkoot River bridge to the end of the Lutak Road spur at the head of Lutak Inlet, is closed to the taking of big game;

(5) Unit 3. (i) A strip one-fourth mile wide on each side of the Stikine (Zimovia) Highway from the Wrangell city limits to Milepost 9 is closed to the taking of big game;

(ii) in the Petersburg vicinity, a strip one-fourth mile wide on each side of the Mitkof Highway from Milepost 0 to the Crystal Lake campground is closed to the taking of big game, except wolves;

(iii) the Petersburg Creek drainage on Kupreanof Island is closed to the taking of black bears;

(iv) Blind Slough, draining into Wrangell Narrows, and a strip one-fourth mile wide on each side of Blind Slough, from the hunting closure markers at the southernmost portion of Blind Island to the hunting closure markers one mile south of the Blind Slough bridge, are closed to all hunting; the remainder of Blind Slough and its drainage is closed to the taking of snow geese only;

(6) Unit 4. (i) In the Sitka area, a strip one-fourth mile wide on each side of all State highways is closed to the taking of big game;

(ii) the Seymour Canal Closed Area (Admiralty Island), including all drainages into northwestern Seymour Canal between Staunton Point and the southernmost tip of the unnamed peninsula separating Swan Cove and King Salmon Bay, and including Swan and Windfall Islands, is closed to the taking of bears;

(iii) the Salt Lake Bay Closed Area (Admiralty Island), including all lands within one-fourth mile of Salt Lake above Klutchman Rock at the head of Mitchell Bay, is closed to the taking of bears;

(iv) Port Althorp (Chichagof Island), that area within the Port Althorp watershed south of a line from Point Lucan to Salt Chuck Point (Trap Rock), is closed to the taking of brown bears;

(v) Northeast Chichagof Controlled Use Area, consisting of that portion of Unit 4 on Chichagof Island north of Tenakee Inlet and east of Port Frederick, is closed to the use of any motorized land vehicle for brown bear hunting;

(7) Unit 6. (i) the Goat Mountain goat observation area, which consists of that portion of Unit 6 bounded on the north by Miles Lake and Miles Glacier, on the south and east by Pleasant Valley River and Pleasant Glacier, and on the west by the Copper River, is closed to the taking of mountain goat;

(ii) the Heney Range goat observation area, which consists of that portion of Unit 6(C) south of the Copper River Highway and west of the Eyak River, is closed to the taking of mountain goat;

(8) Unit 7. (i) the Portage Glacier Closed Area in Unit 7, which consists of

Portage Creek drainages between the Anchorage-Seward Railroad and Placer Creek in Bear Valley, Portage Lake, the mouth of Byron Creek, Glacier Creek and Byron Glacier, is closed to hunting; however, migratory birds and small game may be hunted with shotguns after September 1;

(ii) the Exit Glacier Closed Area in Unit 7, which consists of the south side drainages of the Resurrection River downstream from the mouth of Redman Creek, and Resurrection Bay drainages between the mouth of the Resurrection River and the mouth of Lowell Creek, is closed to the taking of big game;

(iii) the Cooper Landing Closed Area, which consists of that portion of Units 7 and 15 bounded by a line from the junction of the Sterling Highway and the Chugach National Forest boundary, then along the national forest boundary to Thurman Creek, then southeasterly along Thurman Creek and the northeast side of Trout Lake, then to the confluence of Juneau Creek and Falls Creek, then easterly along Falls Creek and the North Fork of Falls Creek and over the connecting saddle to Devils Creek, then southeasterly along Devils Creek to its confluence with Quartz Creek, then southwesterly along Quartz Creek to the Sterling Highway and then to the point of beginning, is closed to the taking of Dall sheep and mountain goat;

(iv) the Resurrection Creek Closed Area, which consists of the drainage of Resurrection Creek downstream from Rimrock and Highland Creeks, including Palmer Creek, is closed to the taking of moose;

(9) Unit 9. (i) In Unit 9 in the McNeil River State Game Sanctuary, the McNeil River drainage, Mikfik Creek drainage, and all drainages into McNeil Cove from Akjemguiga Cove to McNeil Head, are closed to hunting, and the remainder of the McNeil River State Game Sanctuary and contiguous tidelands are closed to brown bear hunting; access to the sanctuary is by permit only issued by the State of Alaska;

(ii) Unit 9(E) is closed to the taking of Canada geese;

(iii) that portion of Unit 9 extending south and east of McNeil River State Game Sanctuary to the boundary of Katmai National Park and Preserve, and including any State land within the boundaries of Katmai National Park and Preserve, is closed to brown bear hunting;

(10) Unit 10. (i) Unit 10, except Unimak Island, is closed to the taking of Canada geese; and

(ii) Otter Island in the Pribilof Islands is closed to hunting;

(11) Units 12, 13, and 20. (i) The Tok Management Area:

(A) The area consists of those portions of Units 12, 13(C), and 20(D) bounded by a line along the Alaska Highway east from the east side of the Johnson River bridge to Tok Junction, then south along the Tok-Slana cutoff (Glenn Highway) to the Slana River, then west along the north bank of the Slana River to its confluence with Lost Creek, then up the north side of Lost Creek to the divide between Lost Creek and Jack Creek, then north to the Unit 12 boundary, then west along the Unit 12 boundary to Mount Kimball (63°17' N. lat., 144°40' W. long.), then west in a straight line to Mount Gakona (63°17' N. lat., 145°12' W. long.), then northerly along the east bank of the Johnson Glacier and Johnson River to the Johnson River bridge;

(B) The area is open to sheep hunting by permit only;

(ii) [Reserved]

(12) Units 13 and 20. (i) Delta Controlled Use Area:

(A) The area consists of the drainages of the Tanana River south of the Alaska Highway, from the west bank of the Johnson River to and including drainages of the Delta River north of north bank of Miller Creek and Canwell Glacier in Units 13(B), 20(A), and 20(D);

(B) The area is closed to the use of any motorized vehicle or pack animal for hunting, from August 5 through August 25; however, this does not prohibit motorized access to the area for hunting, or transportation of game on the Richardson Highway;

(ii) [Reserved]

(13) Unit 13. (i) The Paxson Closed Area in Unit 13(B), which consists of the eastern drainage of the Gulkana River lying west of the Richardson Highway and the western drainage of the Gulkana River between the Denali Highway and the north end of Paxson Lake where the Gulkana River enters Paxson Lake, is closed to the taking of big game;

(ii) The Sheep Mountain Closed Area which lies along the Glenn Highway in Unit 13(A) and is bounded by a line from Caribou Creek, Milepost 107 Glenn Highway, then easterly along the Glenn Highway to Milepost 123, then north to Squaw Creek, then downstream to Caribou Creek, then down Caribou Creek to the point of beginning, is closed to the taking of mountain goat and Dall sheep;

(iii) The Sourdough Controlled Use Area:

(A) The area consists of that portion of Unit 13(B) bounded by a line beginning at the confluence of Sourdough Creek and the Gulkana

River, then northerly along Sourdough Creek to the Richardson Highway at approximately Mile 148, then northerly along the Richardson Highway to the Meiers Creek Trail at approximately Mile 170, then westerly along the trail to the Gulkana River, then southerly along the east bank of the Gulkana River to its confluence with Sourdough Creek, the point of beginning;

(B) The area is closed to the use of any motorized vehicle for hunting; however, this does not prohibit motorized access or transportation of game on the Richardson Highway, Sourdough and Haggard Creeks, Meiers Lake trails, or other trails designated by the Alaska Department of Fish and Game;

(iv) The Clearwater Creek Controlled Use Area:

(A) The area consists of that portion of Unit 13(B) north of the Denali Highway, west of and including the MacLaren River drainage, east of and including the eastern bank drainage of the Middle Fork of the Susitna River downstream from and including the Susitna Glacier, and the eastern bank drainages of the Susitna River downstream from its confluence with the Middle Fork;

(B) The area is closed to the use of any motorized vehicle for hunting; however, this does not prohibit motorized access, or transportation of game, on the Denali Highway;

(v) The Tonsina Controlled Use Area:

(A) The area consists of that portion of Unit 13(D) bounded on the west by the Richardson Highway from the Tiekkel River to the Tonsina River at Tonsina, on the north along the south bank of the Tonsina River to where the Edgerton Highway crosses the Tonsina River, then along the Edgerton Highway to Chitina, on the east by the Copper River from Chitina to the Tiekkel River, and on the south by the north bank of the Tiekkel River;

(B) The area is closed to the use of any motorized vehicle or pack animal for hunting, from August 5 to September 30;

(14) Unit 14. (i) The Fort Richardson Management Area, consisting of the Fort Richardson Military Reservation, is open to the taking of big game by permit only;

(ii) The Eagle River Management Area, consisting of the Eagle River drainage upstream from the Glenn Highway in Unit 14(C) is closed to hunting, except sheep hunting by permit;

(iii) The Anchorage Management Area:

(A) The area consists of all Cook Inlet drainages south of the Elmendorf and Fort Richardson military reservations

and north of and including Rainbow Creek, but excluding the Anchorage Coastal Wildlife Refuge;

(B) The Anchorage Management Area is closed to hunting, except that:

(1) Moose hunting is allowed by State of Alaska permit only;

(2) Small game and waterfowl may be taken by falconry, except that waterfowl may not be taken in the Ship Creek drainage west of Post Road;

(iv) The Eklutna Lake Management Area:

(A) The area consists of the drainages of Eklutna River and Eklutna Lake in Unit 14(C) upstream from the Glenn Highway, excluding those drainages flowing into the East Fork of Eklutna River upstream from the bridge above the Lake and Thunderbird Creek;

(B) The area is closed to hunting, except that—

(1) Small game may be taken by bow and arrow only, from the day after Labor Day through April 30;

(2) Moose hunting is allowed by permit with bow and arrow only;

(3) Black bear may be taken by bow and arrow only, from the day after Labor Day to May 20, for one bear only;

(4) Sheep may be taken by permit, and by bow and arrow only, from the day after Labor Day through September 30;

(v) The Chugach State Park Management Area:

(A) The area consists of that portion of Chugach State Park outside of the Eagle River, Anchorage, and Eklutna Management Areas;

(B) The area is open to hunting under regulations governing Unit 14(C), except as follows:

(1) Black bear hunting is open from the day after Labor Day through May 20 for 1 bear only;

(2) No hunting is allowed for brown bear, mountain goat, squirrel, wolf, wolverine, coyote and unclassified game;

(vi) The Peters Creek Management Area:

(A) The area consists of all lands bounded on the south and west by Eagle River and the Fort Richardson Military Reservation, on the east by the old Glen Highway, and on the north by Peters Creek;

(B) The area is closed to hunting except that:

(1) Small game may be taken by shotgun or bow and arrow only, north and west of the Alaska Railroad;

(2) Moose hunting is allowed by drawing permit, by bow and arrow only;

(15) Unit 15. (i) The Moose River Closed Area near Sterling in Unit 15(A), which consists of the area on and within one-quarter mile of the Moose River between the Kenai National Moose

Range boundary and the Sterling Highway, is closed to the taking of waterfowl;

(ii) The Kenai Controlled Use Area, consisting of that portion of Unit 15(A) north of the Sterling Highway, is closed during moose-hunting season to the use of aircraft for hunting moose, including transportation of a moose hunter or moose part; however, this does not apply after 12:01 a.m., September 11, and does not apply to transportation of a moose hunter or moose part by aircraft to or from a publicly owned airport in the controlled use area;

(iii) The Lower Kenai Controlled Use Area, consisting of Unit 15(C), is closed to the use of any motorized vehicle except an aircraft or boat for hunting moose from September 11 through September 20, including transportation of a moose hunter or moose part; however, this does not apply to a motorized vehicle on a state- or borough-maintained highway;

(vi) The Skilak Loop Management Area:

(A) The area consists of that portion of Unit 15(A) bounded by a line beginning at the easternmost junction of the Sterling Highway and the Skilak Loop (milepost 76.3), then due south to the south bank of the Kenai River, then southerly along the south bank of the Kenai River to its confluence with Skilak Lake, then westerly along the north shore of Skilak Lake to Lower Skilak Lake Campground, then northerly along the Lower Skilak Lake Campground Road and the Skilak Loop Road to its westernmost junction with the Sterling Highway, then easterly along the Sterling Highway to the point of beginning;

(B) The area is closed to hunting and trapping except that small game may be taken only from October 1 through March 1 by bow and arrow only, and antlerless moose may be taken by permit only;

(16) Unit 17. (i) All islands and adjacent waters within one-half mile of each island in the Walrus Islands State Game Sanctuary, as described in Alaska Statute 16.20.110, except for those islands known as the Twins and their adjacent waters are closed to hunting;

(ii) The Upper Mulchatna Controlled Use Area:

(A) The area consists of Unit 17 (B);

(B) The area is closed to the use of any motorized vehicle, except aircraft and boats and in legally permitted hunting camps, for hunting big game from August 1 to November 1, including transportation of big game hunters and parts of big game.

(17) Unit 18—the Kalskag Controlled Use Area. (i) The area consists of that

portion of Unit 18 bounded by a line from Lower Kalskag on the Kuskokwim River, north-westerly to Russian Mission on the Kuskokwim River, north-westerly to Russian Mission on the Yukon River, then east along the north bank of the Yukon River to the old site of Paimiut, then back to Lower Kalskag;

(ii) This area is closed to the use of aircraft for hunting big game, including transportation of any big game hunter and big game part; however, this does not apply to transportation of a big game hunter or big game part by aircraft to or from a publicly owned airport in the controlled use area;

(18) Unit 19—the Upper Kuskokwim Controlled Use Area. (i) The area consists of that portion of Unit 19(D) upstream from the mouth of Big River including the drainages of the Big River, Middle Fork, South Fork, East Fork, and Tonzona River, and bounded by a line following the west bank of the Swift Fork (McKinley Fork) of the Kuskokwim River to 152° 50' W. long., then north to the boundary of Denali National Preserve, then following the western boundary of Denali National Preserve north to its intersection with the Minchumina-Telida winter trail, then west to the crest of Telida Mountain, then north along the crest of Munsatli Ridge to elevation 1,610, then northwest to Dyckman Mountain and following the crest of the divide between the Kuskokwim River and the Nowitna drainage, and the divide between the Kuskokwim River and the Nixon Fork River to Loaf bench mark on Halfway Mountain, then south to the west side of Big River drainage, the point of beginning;

(ii) The area is closed during moose-hunting seasons to the use of aircraft for hunting moose, including transportation of any moose hunter or moose part; however, this does not apply to transportation of a moose hunter or moose part by aircraft to or from a publicly owned airport in the controlled use area;

(19) Units 20, 24, 25, and 26—the Dalton Highway Corridor Management Area, consisting of those portions of Units 20, 24, 25, and 26 extending five miles from each side of the Dalton Highway from the Yukon River to the Prudhoe Bay Closed Area, is closed to hunting; however, big game and small game may be taken in the area by bow and arrow only; no motorized vehicle, except aircraft, boats, and licensed highway vehicles, may be used to transport game or hunters within the Dalton Highway Corridor Management Area;

(20) Unit 20. (i) Birch Lake and the area within one-half mile of Birch Lake (Mile 56 Richardson Highway) is closed to the taking of big game;

(ii) Harding Lake and the area within one-half mile of Harding Lake (Mile 44 Richardson Highway) is closed to the taking of big game;

(iii) Lost Lake and the area within one-half mile of Lost Lake (Mile 56 Richardson Highway) is closed to the taking of big game with firearms and crossbows;

(iv) The Delta Junction Closed Area (Unit 20(D) near Delta Junction), which consists of that portion of Unit 20(D) bounded by a line beginning at the confluence of Donnelly Creek and the Delta River, then up Donnelly Creek to the Richardson Highway (Mile 238), then north along the east side of the highway to the coal mine road (Mile 242), then east along the south side of the coal mine road to the junction with the trail to Jarvis Creek, then down the east bank of Jarvis Creek to the 33-Mile Loop Road crossing (Mile 12), to the "12 mile crossing trail" (Mile 246.9), then east along the south side of the "12 mile crossing trail" and across Jarvis Creek to the 33-mile loop then northeast along the 33-Mile Loop Road to the intersection with the Alaska Highway (Mile 1414), then southeast along the north side of the Alaska Highway to the bridge at Sawmill Creek (Mile 1403.9), then down the west bank of Sawmill Creek to its confluence with Clearwater Creek and down the south bank of Clearwater Creek to its confluence with the Tanana River, then down the Tanana River to its confluence with the Delta River, and upstream along the east bank of the Delta River to the point of beginning at Donnelly Creek, is closed to the taking of moose;

(v) The Glacier Mountain Controlled Use Area:

(A) The area consists of that portion of Unit 20(E) bounded by a line beginning at Mile 140 of the Taylor Highway, then north along the highway to Eagle, then west along the cat trail from Eagle to Crooked Creek, then from Crooked Creek southwest along the west bank of Mogul Creek to its headwaters on North Peak, then west across North Peak to the headwaters of Independence Creek, then southwest along the west bank of Independence Creek to its confluence with the North Fork of the Fortymile River, then easterly along the south bank of the North Fork of the Fortymile River to its confluence with Champion Creek, then across the North Fork of the Fortymile River to the south bank of Champion Creek and easterly along the south bank

of Champion Creek to its confluence with Little Champion Creek, then northeast along the east bank of Little Champion Creek to its headwaters, then northeasterly in a direct line to Mile 140 on the Taylor Highway;

(B) The area is closed to the use of any motorized vehicle for hunting, from August 5 to September 20; however, this does not prohibit motorized access via, or transportation of game on, the Taylor Highway or any airport;

(vi) The Wood River Controlled Use Area:

(A) The area consists of that portion of Unit 20(A) bounded on the north by the south side of the Rex Trail beginning at its intersection with the Totatlanika River then easterly along the Rex Trail to Gold King airstrip, then from Gold King airstrip along the trail's extension along the north side of Japan Hills to the Wood River; on the east by the Wood River, including the Wood River drainage upstream from and including the Snow Mountain Gulch Creek drainage; on the south side by the divide separating the Yanert River drainage from the drainages of Healy Creek, Moody Creek, Montana Creek and the Wood River; and on the west by the east bank of the Nenana River from the divide separating the drainage of the Yanert River and Montana Creek north to Healy Creek, then easterly along the south bank of Healy Creek to the north fork of Healy Creek, then along the north fork of Healy Creek to its headwaters, then along a straight line to the headwaters of Dexter Creek, then along Dexter Creek to the Totatlanika River, and then down the east bank of the Totatlanika River to the Rex Trail;

(B) The area is closed to the use of any motorized vehicle except aircraft for big game hunting and transportation of any big game part, from August 1 through September 30;

(vii) The Macomb Plateau Controlled Use Area, consisting of that portion of Unit 20(D) south of the Alaska Highway, draining into the south side of the Tanana River between the east bank of the Johnson River upstream to Prospect Creek, and the east bank of Bear Creek (Mile 1357.3), is closed to the use of any motorized vehicle, except a floatplane on Fish Lake, for hunting or transportation of any game part, from August 10 through September 30;

(viii) The Yanert Controlled Use Area, consisting of that portion of Unit 20(A) drained by the Nenana River upstream from and including the Yanert Fork drainage, is closed to the use of any motorized vehicle, except aircraft, for big game hunting and transportation of any big game part; however, this does not prohibit motorized access via, and

transportation of game on, the Parks Highway;

(ix) The Minto Flats Management Area:

(A) The area consists of that portion of Unit 20 bounded by the Elliot Highway beginning at Mile 118, then northeasterly to Mile 96, then east to the Tolovana Hotsprings Dome, then east to the Winter Cat Trail, then along the Cat Trail south to the Old Telegraph Trail at Dunbar, then westerly along the trail to a point where it joins the Tanana River three miles above Old Minto, then along the north bank of the Tanana River (including all channels and sloughs except Swan Neck Slough), to the confluence of the Tanana and Tolovana Rivers and then northerly to the point of beginning;

(B) The area is open to moose hunting by permit only;

(x) The Fairbanks Management Area consists of the Goldstream subdivision (SE1/4 SE1/4 Section 28 and Section 33, Township 2 North, Range 1 West, and Fairbanks Meridian) and that portion of Unit 20(B) bounded by a line from the confluence of Rosie Creek and the Tanana River, northerly along Rosie Creek to the divide between Rosie Creek and Cripple Creek, then down Cripple Creek to its confluence with Ester Creek, then up Ester Creek to its confluence with Ready Bullion Creek, then up Ready Bullion Creek to the summit of Ester Dome, then down Sheep Creek to its confluence with Goldstream Creek, then easterly along Goldstream Creek to its confluence with First Chance Creek, then up First Chance Creek to Tungsten Hill, then southerly along Steele Creek to its intersection with the Trans-Alaska Pipeline, then southerly along the pipeline right-of-way to the Chena River, then along the north bank of the Chena River to the Moose Creek dike, then southerly along Moose Creek dike to its intersection with the Tanana River, and then westerly along the north bank of the Tanana River to the point of beginning;

(xi) The Ferry Trail Management Area:

(A) The area consists of that portion of Unit 20(A) bounded on the north by the Rex Trail; on the west by the east bank of the Nenana River from its intersection with the Rex Trail south to the divide forming the north boundary of the Lignite Creek drainage; on the south by that divide easterly and southerly to the headwaters of Sanderson Creek at Usibelli Peak, then along a southwesterly line to the confluence of Healy Creek and Coal Creek, then upstream along the south bank of Healy Creek to the north fork of Healy Creek, then along the north fork of Healy Creek

to its headwaters; on the east by a straight line from the headwaters of Healy Creek to the headwaters of Dexter Creek, then along Dexter Creek to the Totatlanika River, then down the east bank of the Totatlanika River to the Rex Trail;

(B) The area is open to caribou hunting by permit only;

(xii) The Healy-Lignite Management Area:

(A) The Area consists of that portion of Unit 20 (A) that includes the entire Lignite Creek drainage, and that portion of the Nenana River drainage south of the Lignite Creek drainage and north of a boundary beginning at the confluence of the Nenana River and Healy Creek, then easterly along the south bank of Healy Creek to its confluence with Coal Creek, then northeasterly to the headwaters of Sanderson Creek at Usibelli Peak;

(B) The area is open to hunting by bow and arrow only.

(21) Units 21 and 24—the Koyukuk Controlled Use Area. (i) The area consists of those portions of Units 21 and 24 bounded by a line from the north bank of the Yukon River at Koyukuk, then northerly to the confluences of the Honhosa and Kateel Rivers, then northeasterly to the confluences of Billy Hawk Creek and the Huslia River (65°N. lat., 157° 41' W. long.), then easterly to the south end of Solismunket Lake, then east to Hughes, then south to Little Indian River, then southwesterly to the crest of Hochandochta Mountain, then southwest to the mouth of Cottonwood Creek then southwest to Bishop Rock, then westerly along the north bank of the Yukon River (including Koyukuk Island) to the point of beginning;

(ii) the area is closed during moose-hunting seasons to the use of aircraft for hunting moose, including transportation of any moose hunter or moose part; however, this does not apply to transportation of a moose hunter or moose part by aircraft to or from a publicly owned airport in the controlled use area; all hunters on the Koyukuk River passing the Department of Fish and Game operated check station at Ella's Cabin (15 miles upstream from the Yukon on the Koyukuk River) are required to stop and report to department personnel at the check station;

(22) Unit 21—Paradise Controlled Use Area. (i) The area consists of that portion of Unit 21 bounded by a line beginning at the old village of Paimiut, then north along the west bank of the Yukon River to Paradise, then northwest to the mouth of Stanstrom Creek on the Bonasila River, then northeast to the

mouth of the Anvik River, then along the west bank of the Yukon River to the lower end of Eagle Island (approximately 45 miles north of Grayling), then to the mouth of the Iditarod River, then down the east bank of the Innoko River to its confluence with Paimiut Slough, then south along the east bank of Paimiut Slough to its mouth, and then to the old village of Paimiut;

(ii) The area is closed during moose hunting seasons to the use of aircraft for hunting moose, including transportation of any moose hunter or part of moose; however, this does not apply to transportation of a moose hunter or part of moose by aircraft to or from a publicly owned airport in the controlled use area;

(23) Unit 23—The Noatak Controlled Use Area, consisting of that portion of Unit 23 in a corridor extending five miles on either side of the Noatak River beginning at the mouth of the Kuguruk River, and extending easterly along the Noatak River to the mouth of Sapun Creek, is closed for the period August 20–September 20 to the use of aircraft in any manner for big game hunting, including transportation of big game hunters or game.

(24) Unit 24—The Kanuti Controlled Use Area, consisting of that portion of Unit 24 bounded by a line from the Bettles Field VOR to the east side of Fish Creek Lake, to Old Dummy Lake, to the south end of Lake Todatonten (including all waters of these lakes), to the northernmost headwaters of Siruk Creek, to the highest peak of Double Point Mountain, then back to the Bettles Field VOR, closed during moose-hunting seasons to the use of aircraft for hunting moose, including transportation of any moose hunter or moose part; however, this does not apply to transportation of a moose hunter or moose part by aircraft to or from a publicly owned airport in the controlled use area;

(25) Unit 26—The Prudhoe Bay Closed Area is closed to the taking of big game; this closed area consists of the area bounded by a line beginning at 70° 22' N. lat., 148° W. long., then running south approximately 14 miles to a point at 70° 10' N. lat., 148° W. long., then west approximately 15 miles to a point at 70° 10' N. lat., 148° 40' W. long., then north approximately two miles to a point at 70° 12' N. lat., 148° 40' W. long., then west approximately eight miles to a point at 70° 12' N. lat., 148° 56' W. long., then north approximately two miles to a point at 70° 15' N. lat., 148° 56' W. long., then west approximately 12 miles to a point at 70° 15' N. lat., 149° 28' W. long.,

then north approximately 12 miles to a point at 70° 26' N. lat., 149° 28' W. long., then east approximately 14 miles to a point at 70° 26' N. lat., 148° 52' W. long., then south approximately 2 miles to a point at 70° 24' N. lat., 148° 52' W. long., then east approximately 16 miles to a point at 70° 24' N. lat., 148° 11' W. long., then south approximately 2 miles to a point at 70° 24' N. lat., 148° 11' W. long., then east approximately 6 miles to the point of beginning.

(u) The following areas are closed to the trapping of furbearers for subsistence as indicated:

(1) Unit 1(C) (Juneau area):

(i) A strip within one-quarter mile of the mainland coast between the end of Thane Road and the end of Glacier Highway at Echo Cove;

(ii) Auke Lake and the area within one-quarter mile of Auke Lake;

(iii) That area of the Mendenhall Valley bounded on the south by the Glacier Highway, on the west by the Mendenhall Loop Road and Montana Creek Road and Spur Road to Mendenhall Lake, on the north by Mendenhall Lake, and on the east by the Mendenhall Loop Road and Forest Service Glacier Spur Road to the Forest Service Visitor Center;

(iv) A strip within one-quarter mile of the Douglas Island coast along the entire length of the Douglas Highway and a strip within one-quarter mile of the Eaglecrest Road;

(v) That area within the U.S. Forest Service Mendenhall Glacier Recreation Area;

(vi) A strip within one-quarter mile of the following trails as designated on U.S. Geological Survey maps: Herbert Glacier Trail, Windfall Lake Trail, Peterson Lake Trail, Spaulding Meadows Trail (including the loop trail), Nugget Creek Trail, Outer Point Trail, Dan Moller Trail, Perseverance Trail, Granite Creek Trail, Mt. Roberts Trail and the Nelson Water Supply Trail, Sheep Creek Trail, and Point Bishop Trail;

(vii) The area described as the Mendenhall Wetlands State Game Refuge in Alaska Statute 16.20.034 is closed to trapping; the use of off-road or all-terrain vehicles, motorcycles, or other motorized vehicles (except boats) within the boundaries of Mendenhall Wetlands State Game Refuge is prohibited at all times;

(2) Unit 9: The drainages of McNeil River, Mikfik Creek and all other drainages into McNeil Cove which extends from Akjengua Cove on the north to McNeil Head on the south, located at the head of Kamishak Bay, in

the lower Cook Inlet are closed to trapping; access to the McNeil River State Game Sanctuary is by permit only;

(3) Unit 14(C) (Anchorage Area):

(i) The drainages into Eklutna River and Eklutna Lake, excluding those drainages flowing into the East Fork of the Eklutna River, upstream from the bridge above the lake, within the Chugach State Park except Thunderbird Creek;

(ii) Eagle River and all drainages into Eagle River;

(iii) That portion of Chugach State Park outside of the Eagle River, Anchorage, and Eklutna Management areas is open to trapping under Unit 14(C) seasons and bag limits, except no trapping of wolf, wolverine, land otter, or beaver is allowed;

(iv) All land and water within the Anchorage Management Area as described in the preceding Subsection;

(v) In the Anchorage Coastal Wildlife Refuge in Unit 14(C), described in Alaska Statute 16.20.031: all land and water south and west of and adjacent to the toe of the bluff that extends from Point Woronzof southeasterly to Potter Creek;

(4) Unit 15. (i) Within the city limits of Homer (Unit 15) as those limits existed in November 1987;

(ii) The Skilak Loop Wildlife Management Area, consisting of that portion of Unit 15(A) bounded by a line beginning at the easternmost junction of the Sterling Highway and the Skilak Loop Road (milepost 58.0), then due south to the south bank of the Kenai River, then southerly along the south bank of the Kena River to its confluence with Skilak Lake, then westerly along the north shore of Skilak Lake to Lower Skilak Lake Campground, then northerly along the Lower Skilak Lake Campground Road and the Skilak Loop Road to its westernmost junction with the Sterling Highway, then easterly along the Sterling Highway to the point of beginning;

(iii) That portion of Unit 15(B) east of the Kenai River, Skilak Lake, Skilak River, and Skilak Glacier is closed to the trapping of marten;

(5) Unit 17: All islands within the Walrus Islands State Game Sanctuary as described in Alaska Statute 16.20.110 are closed to trapping.

(v) Regulations in this section govern only subsistence take of big game, small game, fur animals and unclassified game, and include season, area, and permit restrictions. Game may not be taken for subsistence except as specifically provided in this chapter.

BIG GAME ANIMALS

Units and bag limits	Subsistence open season
Black Bear—seasons and bag limits	
Units 1, 2, 3, and 5—2 bears, not more than 1 of which may be a blue or glacier bear.....	Sept. 1–June 30.
Unit 6—1 bear.....	Sept. 1–June 30.
Units 7, 9, 11–13, and 15–26—3 bears.....	No closed season.
Unit 14—1 bear.....	No closed season.
Brown Bear—season and bag limits	
Unit 1—1 bear by registration permit only.....	Sept. 15–Dec. 31, Mar. 15–May 31.
Units 2 and 3.....	No open season.
Unit 4, Chichagof Island south and west of a line that follows the crest of the island from Rock Point (58° N. lat., 136°21' W. long.), to Rodgers Point (57°35' N. lat., 135°33' W. long.), including Yakobi and other adjacent islands; Baranof Island south and west of a line which follows the crest of the island from Nisimeni Point (57°34' N. lat., 135°25' W. long.), to the entrance of Gut Bay (56°44' N. lat., 134°38' W. long.), including the drainages into Gut Bay and including Kruzof and other adjacent islands—1 bear by registration only.	Sept. 15–Dec. 31, Mar. 15–May 31.
Unit 4, that portion in the Northeast Chichagof Controlled Use Area—1 bear by registration permit only.....	Mar. 15–May 20.
Remainder of Unit 4—1 bear by registration permit only.....	Sept. 15–Dec. 31, Mar. 15–May 20.
Unit 5—1 bear every four years.....	Sept. 1–May 31.
Units 6, 7, and 8.....	No open season.
Unit 9(B)—1 bear every four years.....	Oct. 1–Oct. 21 (odd years only) May 10–May 25 (even years only).
Unit 9(E)—1 bear every four years.....	Oct. 7–Oct. 21 (odd years only) May 10–May 25 (even years only).
Remainder of Unit 9.....	No open season.
Units 10–16.....	No open season.
Units 17(A) and 17(C)—1 bear every four years.....	Sept. 10–Oct. 10, April 10–May 25.
Unit 17(B)—1 bear every four years.....	Sept. 20–Oct. 10, May 10–May 25.
Unit 18—Residents domiciled in Kwethluk: 1 bear every year. All others: 1 bear every 4 years.....	Sept. 10–Oct. 10, Apr. 10–May 25.
Units 19(A), 19(D), and 21(A)—1 bear every four years.....	Sept. 1–Oct. 10, May 10–May 25.
Remainder of Unit 19.....	No open season.
Unit 20 except 20(E)—1 bear every four years.....	Sept. 1–Nov. 30, Apr. 1–May 31.
Unit 20(E).....	No open season.
Unit 21(B), 21(C), 21(D), and 21(E)—1 bear every four years.....	Sept. 1–Dec. 31, Apr. 1–May 25.
Remainder of Unit 21.....	No open season.
Unit 22(A)—1 bear every four years.....	Sept. 1–Oct. 31, Apr. 15–May 25.
Unit 22(C)—1 bear every four years.....	Sept. 1–Oct. 31, May 10–May 25.
Remainder of Unit 22—1 bear every four years.....	Sept. 1–Oct. 31, Apr. 15–May 25.
Unit 23—1 bear every four years.....	Sept. 1–Oct. 10, Apr. 15–May 25.
Unit 24—That portion of the Koyukuk River drainage upstream from, and including the Alatna River drainage. Residents of Anaktuvuk Pass: 1 bear every year.	Sept. 1–Oct. 31, Apr. 1–May 31.
All other subsistence hunters: 1 bear every four years by registration permit.....	Sept. 1–Oct. 31, May 10–May 31.
Remainder of Unit 24—1 bear every four years.....	Sept. 1–Dec. 31, May 10–May 25.
Unit 25.....	No open season.
Unit 26(A), east of 159° W. long. Residents of Anaktuvuk Pass: 1 bear every year.....	Sept. 1–Oct. 31, Apr. 1–May 31.
Other subsistence hunters—1 bear every four years.....	Sept. 1–Oct. 31, May 10–May 31.
Unit 26(A), west of 159° W. long.—1 bear every four years.....	Sept. 1–Oct. 31, May 10–May 31.
Units 26(B) and (C)—1 bear every four years.....	Sept. 1–Oct. 31, May 10–May 31.
Caribou—seasons and bag limits	
Unit 7.....	No open season.
Unit 8—No limit.....	No closed season.
Units 9(A), 9(B), 9(C), 9(E), 17(B), and that portion of 17(C) east of the Nushagak River—4 caribou; however, no more than 2 caribou may be taken Aug. 10–Aug. 31 and no more than 1 caribou may be taken Sept. 1–Nov. 30.	Aug. 10–Mar. 31.
Unit 9(D) and Unit 10, Unimak Island only—1 bull.....	Sept. 1–May 31.
Unit 10, Adak Island only 2 caribou by registration permit only.....	Sept. 1–Mar. 31.
Unit 10, Umnak Island only.....	No open season.
Remainder of Unit 10.....	No closed season.
Unit 11—1 caribou, by registration permit only.....	Aug. 10–Sept. 30.
Unit 12, residents of Tetlin and Northway only 1 antlerless caribou by Federal registration permit only.....	Open by announcement only.
Units 12 and 20(D) north of the south bank of the Tanana River downstream from the bridge at milepost 1303 Alaska Highway and north of the Alaska Highway from the bridge at milepost 1303 to the Canadian Border—1 caribou.	Aug. 10–Sept. 30, Dec. 1–Feb. 28.
Remainder of Unit 12—1 bull.....	Sept. 1–Sept. 20.
Units 13 and 14(B)—1 caribou by registration permit only. During the Jan. 1–Feb. 28 season, caribou may be taken in Unit 13 except for Unit 13(B) and except for that portion of Unit 13(A) within one-half mile of the Alaska Pipeline.	Aug. 10–Sept. 20, Jan. 1–Feb. 28.
Units 13 and 14(B).....	Aug. 10–Sept. 20.
Residents of Units 11, 13 and 12 along the Nabesna Road—1 caribou by Federal registration permit only.....	Jan. 5–Mar. 31.
Unit 14(A) and 14(C), and remainder of Unit 15.....	No open season.
Unit 16—1 caribou.....	Aug. 10–Oct. 31.
Unit 17(A) and that portion of Unit 17(C) west of Nushagak River.....	No open season.
Unit 18 south of the Yukon River.....	No open season.
Remainder of Unit 18—1 caribou.....	Feb. 1–Mar. 31.
Unit 19—Residents domiciled in Lime Village only: Village bag limit of 100 caribou; cows and calves may not be taken from April 1–Aug. 9.	Feb. 1–Mar. 31, July 1–June 30.
Unit 19(A) north of Kuskokwim River—1 caribou.....	Aug. 10–Sept. 30, Nov. 1–Feb. 28.
Unit 19(A) south of the Kuskokwim River, and Unit 19(B) (excluding residents of Lime Village): 4 caribou; however, no more than 2 caribou may be taken Aug. 10–Aug. 31 and no more than 1 caribou may be taken Sept. 1–Nov. 30.	Aug. 10–Mar. 31.
Unit 19(C)—1 Caribou.....	Aug. 10–Oct. 10.
Unit 19(D) south and east of the Kuskokwim River and North Fork of the Kuskokwim River—1 caribou.....	Aug. 10–Sept. 30, Nov. 1–Jan. 31.
Remainder of Unit 19(D)—1 Caribou.....	Aug. 10–Sept. 30.

BIG GAME ANIMALS—Continued

Units and bag limits	Subsistence open season
Unit 20(C).....	No open season.
Unit 20(D) south of the Tanana River—1 bull.....	Aug. 10–Sept. 30
Unit 20(E), that portion drained by the Yukon River downstream from and including the Seventy-mile and Charley Rivers, the North Fork Forty-mile River upstream from and including Independence Creek, the Middle Fork Forty-mile River upstream from Fish Creek, and the Mosquito Fork Forty-mile River upstream from and including Ketchumstruck Creek—1 caribou.....	Aug. 10–Sept. 30, Dec. 1–Feb. 28.
Remainder of Unit 20(E) accessible by the Taylor Highway and associated trails—1 caribou by registration permit only.....	Aug. 10–Sept. 30, Dec. 1–Feb. 28.
Unit 20(F), except the Tozitna River drainage, south of the Yukon River and west of the Dalton Highway—1 bull.....	Aug. 10–Sept. 20.
Unit 20(F), Tozitna River drainage—1 caribou only bull caribou may be taken during the Aug. 10–Sept. 30 season; caribou of either sex may be taken during the Mar. 1–Mar. 15 season.....	Aug. 10–Sept. 30, Mar. 1–Mar. 15.
Remainder of Unit 20(F)—1 bull.....	Aug. 10–Sept. 30.
Unit 21, except Unit 21(D) west of the Yukon and Koyukuk Rivers—1 caribou.....	Aug. 10–Sept. 30.
Unit 21(D) west of the Yukon and Koyukuk Rivers, Units 22(A), 22(B), 23, and 26(A) (except the Nanushuk River drainage)—5 caribou per day; however, cow caribou may not be taken May 16–June 30.....	July 1–June 30.
Units 22(C), 22(D), and 22(E).....	No open season.
Unit 24, the Kanuti River drainage upstream from Kanuti, Chalatna Creek, the Fish Creek drainage (including Bonanza Creek), and that portion of Unit 25(D) drained by the west fork of the Dall River west of 150° W. long.—1 bull.....	Aug. 10–Sept. 30.
Remainder of Unit 24—5 caribou per day; however, cow caribou may not be taken May 16–June 30.....	July 1–June 30.
Units 25(A), 25(B), and the remainder of Unit 25(D)—10 caribou; however, no more than 5 caribou may be transported from these units per regulatory year.....	July 1–Apr. 30.
The Nanushuk River drainage of Unit 26(A), and Unit 26 (B)—5 caribou; however, cow caribou may be taken only from Oct. 1–April 30.....	July 1–Apr. 30.
Unit 26(C)—10 caribou; however, not more than 5 caribou may be transported from Unit 26(C) per regulatory year.....	July 1–Apr. 30.
Dall Sheep—seasons and bag limits	
Units 6 and 9, remainder of Unit 13, and Units 14(B), 16, 17, and 19—1 ram with $\frac{3}{4}$ curl horn.....	Aug. 10–Sept. 20.
Unit 11—1 sheep.....	Aug. 10–Sept. 20.
Unit 23: south and east of the Noatak River (excluding Gates of the Arctic National Park)—1 ram with $\frac{3}{4}$ curl horn or larger; a registration permit is required.....	Aug. 10–Sept. 20.
Unit 23 (Remainder)—1 sheep.....	Oct. 1–Apr. 30.
Units 25(A) and 26(C)—3 sheep, 1 ram with $\frac{3}{4}$ curl horn or larger.....	Oct. 1–Apr. 30, Aug. 10–Sept. 20.
Remainder of Unit 25—1 ram with a full curl horn or larger.....	Aug. 10–Sept. 20.
Unit 24 and 26(A), those portions within the Gates of the Arctic National Park—3 sheep.....	Aug. 1–Apr. 30.
Remainder of Units 24, 26(A), and 26(B), including the Gates of the Arctic National Preserve—1 ram with $\frac{3}{4}$ curl horn or larger.....	Aug. 10–Sept. 20.
All other units.....	No open season.
Deer—seasons and bag limits	
Unit 1(A) and 2—4 antlered deer.....	Aug. 1–Dec. 31.
Unit 1(B)—2 antlered deer.....	Aug. 1–Dec. 31.
Unit 1(C)—4 deer; however, antlerless deer may be taken only from Sept. 15–Dec. 31.....	Aug. 1–Dec. 31.
Unit 3, that portion south of Sumner Strait and Decision Passage, including the Vank Island group, but not including Level, Conclusion, and Channel Islands—2 antlered deer.....	Aug. 1–Nov. 30.
Remainder of Unit 3.....	No open season.
Unit 4, that portion of Chichagof Island east of Port Frederick and north of Tenakee Inlet, including all drainages into Tenakee Inlet and Port Frederick—6 deer; however, antlerless deer may be taken only from Sept. 15–Jan. 31.....	Aug. 1–Jan. 31.
Remainder of Unit 4—6 deer; however, antlerless deer may be taken only from Sept. 15–Jan. 31.....	Aug. 1–Jan. 31.
Unit 1(D) and 5.....	No open season.
Unit 6—5 deer; however, 2 antlered deer.....	Aug. 1–Dec. 31.
Remainder of Unit 3.....	No open season.
Unit 4, that portion of Chichagof Island east of Port Frederick and north of Tenakee Inlet, including all drainages into Tenakee Inlet and Port Frederick—6 deer; however, antlerless deer may be taken only from Sept. 15–Jan. 31.....	Aug. 1–Jan. 31.
Remainder of Unit 4—6 deer; however, antlerless deer may be taken only from Sept. 15–Jan. 31.....	Aug. 1–Jan. 31.
Unit 1(D) and 5.....	No open season.
Unit 6—5 deer; however, antlerless deer may be taken only from Sept. 15–Dec. 31.....	Aug. 1–Dec. 31.
Unit 8, that portion of Kodiak Island north of the access road from Port Lions to Crescent Lake (57°52' N. lat., 152°58' W. long.), and east of a line from the outlet of Crescent Lake to Mount Ellison Peak and from Mount Ellison Peak to Pokati Point at Whale Passage, and that portion of Kodiak Island north of a line from Sequel Point to Pasagshak Pass, and north of the area draining into Ugak Bay east of a line from the mouth of Sallery Creek to Crag Point—1 deer; however, antlerless deer may be taken only from Oct. 1–Oct. 31.....	Aug. 1–Dec. 15.
Unit 8, that portion of Kodiak Island east of a line from the mouth of Sallery Creek to Crag Point draining into Ugak Bay, and south of a line from Sequel Point to Pasagshak Pass—1 deer; however, antlerless deer may be taken only from Oct. 1–Oct. 31.....	Aug. 1–Dec. 15.
Remainder of Unit 8—5 deer; however, antlerless deer may be taken only from Sept. 15–Jan. 7.....	Aug. 1–Jan. 7.
Goat—seasons and bag limits	
Unit 1(A), Revillagigedo Island only.....	No open season.
Unit 1(B), that portion between Muddy River and LeConte Bay including the drainages into the North side of LeConte Bay—1 goat by registration permit only; however, the taking of kids or nannies accompanied by kids is prohibited.....	Aug. 1–Dec. 31.
Remainder of Unit 1(A) and Unit 1(B)—2 goats by registration permit only.....	Aug. 1–Dec. 31.
Unit 1(C), that portion draining into Lynn Canal and Stephens Passage between Antler River and Eagle Glacier and River—1 goat by registration permit only.....	Oct. 1–Nov. 30.
Unit 1(C), that portion draining into Stephens Passage and Taku Inlet between Eagle Glacier and River and Taku Glacier, and all drainages of the Chilkat Range south of the Endicott drainage.....	No open season.
Remainder of Unit 1(C)—1 goat by registration permit only.....	Aug. 1–Nov. 30.
Unit 1(D), that portion lying between Taiya Inlet and River and the White Pass and Yukon Railroad.....	No open season.

BIG GAME ANIMALS—Continued

Units and bag limits	Subsistence open season
Unit 1(D), that portion lying north of the Katzeihin River and northeast of the Haines Highway—1 goat by registration permit only.	Sept. 15–Nov. 30.
Remainder of Unit 1(D), and Units 4 and 5—1 goat by registration permit only.	Aug. 1–Dec. 31.
Unit 6(D), that portion in the Tatilek hunt area—1 goat by registration permit only.	Aug. 1–Jan. 31.
Unit 6(D) that portion in the Chenega Bay hunt area—1 goat by registration permit only.	Aug. 1–Jan. 31.
Remainder of Unit 6—1 goat by registration permit only.	Aug. 1–Jan. 31.
Units 7 and 15(C), those portions in the Seldovia, Brown Mountain and Port Dick hunt subareas—1 goat by registration permit only.	Aug. 1–Oct. 31.
Units 15(C), the English Bay hunt subarea—1 goat by registration permit only.	Aug. 10–Oct. 31.
Unit 12 and the remainder of Unit 13.	No open season.
Moose—seasons and bag limits	
Unit 1(A), and Unit 1(B) south of LeConte Glacier—1 bull.	Sept. 15–Oct. 15.
Remainder of Unit 1(C)—1 bull by registration permit only.	Sept. 15–Oct. 15.
Unit 1(D)—1 bull by registration permit only.	Sept. 1–Sept. 10.
Units 2, 3 (except Wrangell Island), and 4.	No open season.
Unit 3, Wrangell Island—1 bull with spike-fork or 50-inch antler.	Oct. 1–Oct. 15.
Unit 5(A), except Nunatak Bench—1 bull by registration permit only.	Oct. 15–Nov. 15.
Unit 5(A), Nunatak Bench.	No open season.
Unit 5(B)—1 bull by registration permit only.	Sept. 1–Nov. 15.
Unit 8.	No open season.
Unit 9(A)—1 bull.	Sept. 5–Sept. 20.
Unit 9(B) [Lake Clark drainage only]—1 bull; however, antlerless moose may be taken only from Dec. 16–Dec. 31.	Sept. 5–Sept. 20, Dec. 1–Dec. 31.
Remainder of Unit 9(B)—1 bull.	Sept. 5–Sept. 20, Dec. 1–Dec. 31.
Unit 9(C), that portion draining into the Naknek River—1 moose; however, antlerless moose may be taken by registration permit only from Dec. 1–Dec. 31.	Sept. 5–Sept. 20, Dec. 1–Dec. 31.
Remainder of Unit 9(C)—1 moose; however, antlerless moose may be taken only from Dec. 1–Dec. 31.	Sept. 5–Sept. 20, Dec. 1–Dec. 31.
Unit 9(D).	No open season.
Unit 9(E)—1 bull; however, moose taken from Sept. 10–Sept. 20 must have 50-inch antlers.	Sept. 10–Sept. 20, Dec. 1–Dec. 15.
Unit 11—1 bull.	Sept. 1–Sept. 20.
Unit 12, that portion drained by the Tanana, Nabesna and Chisana Rivers east of the Tetlin Reservation boundary and north of the winter trail from Pickerel Lake to the Canadian border—1 bull.	Sept. 1–Sept. 20, Nov. 20–Nov. 30.
Unit 12, that portion lying east of the Nabesna River and south of the winter trail running southeast from Pickerel Lake to the Canadian border—1 bull with 50-inch antlers.	Sept. 1–Sept. 30.
Unit 12, that portion drained by the Little Tok River upstream from and including the first eastern tributary from the headwaters of Tuck Creek.	No open season.
Remainder of Unit 12—1 bull.	Sept. 1–Sept. 20.
Unit 13—1 bull moose by Federal registration permit only; only 1 permit will be issued per household.	Aug. 25–Sept. 20.
Unit 15(C), that portion southwest of a line from Point Pogibshi to the point of land between Rocky Bay and Windy Bay—1 bull.	Sept. 1–Sept. 30.
Unit 16(B) Kelgin Island—1 moose.	Aug. 25–Sept. 30.
Unit 16(B) Redoubt Bay drainages south and west of, and including, the Kustatan River drainage—1 bull.	Sept. 1–Sept. 15.
Remainder of Unit 16(B)—1 moose; however, antlerless moose may be taken only from Sept. 25–Sept. 30, and during the period Dec. 1–Feb. 28, by registration permit.	Sept. 1–Sept. 30, Dec. 1–Feb. 28.
Unit 17(A).	No open season.
Unit 17(B), that portion that includes all the Mulchatna River drainage upstream from and including the Chichitna River drainage—1 bull.	Sept. 1–Sept. 20.
Remainder of Unit 17(B)—1 bull.	Aug. 20–Sept. 15, Dec. 1–Dec. 31.
Unit 17(C), that portion that includes the Iowitla drainage and Sunshine Valley and all lands west of Woodriver and south of Aleknagik Lake—1 bull.	Aug. 20–Sept. 15.
Remainder of Unit 17(C)—1 bull.	Aug. 20–Sept. 15, Dec. 1–Dec. 31.
Unit 18, that portion north and west of a line from Cape Romanzof to Kuzilvak Mountain, and then to Mountain Village, and west of (but not including) the Andreafsky River drainage.	No open season.
Remainder of Unit 18—1 bull.	Sept. 1–Sept. 30, Dec. 20–Dec. 30.
Unit 19; residents of Lime Village only: No bag limit; either sex.	Aug. 10–Sept. 25, Nov. 20–Mar. 31.
Unit 19(A)—1 moose; however, antlerless moose may be taken only from Nov. 20–Nov. 30 and Feb. 1–Feb. 10.	Sept. 1–Sept. 20, Nov. 20–Nov. 30, Feb. 1–Feb. 10.
Unit 19(B)—1 bull.	Sept. 1–Sept. 30.
Unit 19(C)—1 bull.	Sept. 1–Oct. 10.
Unit 19(D), that portion of the Upper Kosokwim Controlled Use Area within the North Fork drainage upstream from the confluence of the South Fork to the mouth of the Swift Fork—1 bull.	Sept. 1–Sept. 30.
Unit 19(D), remainder of the Upper Kosokwim Controlled Use Area—1 bull.	Sept. 1–Sept. 30, Dec. 1–Feb. 28.
Remainder of Unit 19(D)—1 bull.	Sept. 1–Sept. 30, Dec. 1–Dec. 15.
Unit 20(A), that portion south of the Rex Trail and west of the Wood River Controlled Use Area, and the Yanert Controlled Use Area—1 bull with a spike-fork or 50-inch antlers.	Sept. 1–Sept. 20.
Remainder of Unit 20(A)—1 bull.	Sept. 1–Sept. 20.
Unit 20(B), that portion within the Minto Flats Management Area—1 bull by registration permit only.	Sept. 1–Sept. 20, Jan. 10–Feb. 28.
Unit 20(B), the drainage of the Middle Fork of the Chena River and that portion of the Salcha River Drainage upstream from and including Goose Creek—1 bull.	Sept. 1–Sept. 20.
Remainder of Unit 20(B)—1 bull.	Sept. 1–Sept. 20.
Unit 20(C)—1 bull; however, white-phased or partial albino (more than 50 percent white) moose may not be taken.	Sept. 1–Sept. 20.
Unit 20(D), that portion lying south of the north bank of the Tanana River and east of the east bank of the Johnson River—1 bull.	Sept. 1–Sept. 20.
Residents of that portion of Unit 20(D) between Bear Creek and Berry Creek: 1 bull by registration permit only.	Jan. 1–Feb. 15.
Unit 20(D), that portion lying west of the east bank of the Johnson River and south of the north bank of the Tanana River, except the Delta Junction Closed Area—1 bull with spike-fork or 50-inch antlers.	Sept. 1–Sept. 15.
Remainder of Unit 20(D)—1 bull.	Sept. 1–Sept. 10.
Unit 20(E), that portion drained by the Ladue, Sixty-mile, and Forty-mile Rivers (all forks) from Mile 9½ to Mile 145 Taylor Highway, including the Boundary Cutoff Road—1 bull.	Sept. 1–Sept. 10.

BIG GAME ANIMALS—Continued

Units and bag limits	Subsistence open season
Remainder of Unit 20(E), that portion draining into the Yukon River upstream from and including the Charley River drainages to and including the Boundary Creek drainages and the Taylor Highway from mile 145 to Eagle—1 bull.	Sept. 5–Sept. 25.
Unit 20(F)—1 bull	Sept. 1–Sept. 15, Dec. 1–Dec. 10.
Unit 21(A)—1 bull	Sept. 5–Sept. 30, Nov. 1–Nov. 30.
Units 21(B) and 21(C)—1 bull	Sept. 5–Sept. 25.
Unit 21(D)—1 moose; antlerless moose may be taken only from Sept. 21–Sept. 25 and Feb. 1–Feb. 5; moose may not be taken within one-half mile of the Yukon River during the February season.	Sept. 5–Sept. 25, Feb. 1–Feb. 5.
Unit 21(E); Residents of Grayling, Anvik, Shageluk, Holy Cross and Russian Mission only—1 moose	Sept. 5–Sept. 25, Feb. 1–10.
Remainder of Unit 21(E)—1 bull	Sept. 5–Sept. 25.
Unit 22(A)—1 bull	Aug. 1–Sept. 30, Dec. 1–Dec. 31.
Unit 22(B)—1 moose; however, antlerless moose may be taken only from Dec. 1–Dec. 31; no person may take a calf or a cow accompanied by a calf.	Aug. 1–Jan. 31.
Unit 22(C)—1 bull	Sept. 1–Sept. 14.
Unit 22(D), drainages into the north side of Port Clarence, the north side of Grantley Harbor, and the north side of Imuruk Basin, excluding the Kuzitrin, Pilgrim and Kougarok River drainages—1 moose; however, antlerless moose may be taken only from Aug. 1–Dec. 31; no person may take a calf or a cow accompanied by a calf; only antlered moose may be taken Jan. 1–Jan. 31.	Aug. 1–Jan. 31.
Remainder of Unit 22(D)—1 moose; no person may take a calf or a cow accompanied by a calf	Aug. 1–Dec. 31.
Unit 22(E)—1 moose. No person may take a calf or a cow accompanied by a calf	Aug. 1–Mar. 31.
Unit 23, that portion north and west of and including the Noatak River drainage—1 moose; however, antlerless moose may be taken only from Sept. 1–Mar. 31; no person may take a cow accompanied by a calf.	Aug. 1–Mar. 31.
Remainder of Unit 23—1 moose; however, antlerless moose may be taken only from Sept. 15–Oct. 31; no person may take a cow accompanied by a calf.	Aug. 1–Dec. 31.
Unit 24, that portion within the Koyukuk Controlled Use Area—1 moose; however, antlerless moose may be taken only from Sept. 21–Sept. 25, Dec. 1–Dec. 10, and Mar. 1–Mar. 10.	Sept. 5–Sept. 25, Dec. 1–Dec. 10, Mar. 1–Mar. 10.
Unit 24, that portion that includes the John River drainage upstream from but excluding the Hunt Fork drainage—1 moose.	Aug. 1–Dec. 31.
Unit 24, the Alatna River drainage upstream from and including Helpmejack Creek drainage, the John River drainage upstream from and including the Malemute Fork drainage and downstream from and including the Hunt Fork drainage, the Wild River drainage upstream from and including the Michigan Creek drainage, and the North Fork Koyukuk River drainage north of the Bettles/Coldfoot winter trail—1 moose; however, antlerless moose may be taken only from Sept. 21–Sept. 25 and Mar. 1–Mar. 10.	Aug. 25–Sept. 25, Mar. 1–Mar. 10.
Remainder of Unit 24—1 bull	Aug. 25–Sept. 25.
Residents of Unit 25(A) and Residents of Venetie only—1 bull	Aug. 25–Sept. 25, Dec. 1–Dec. 10.
Unit 25(B), that portion within the Porcupine River drainage upstream from but excluding the Coleen River drainage—1 bull.	Aug. 25–Sept. 25, Dec. 1–Dec. 10.
Unit 25(B), that portion within the Yukon River drainage upstream from and including the Kandik River drainage—1 bull.	Sept. 5–Sept. 25, Dec. 1–Dec. 10.
Remainder of Unit 25(B)—1 bull	Aug. 25–Sept. 25, Dec. 1–Dec. 10.
Unit 25(C)—1 bull	Sept. 5–Sept. 15.
Unit 25(D), that portion lying west of a line extending from the Unit 25(D) boundary on Preacher Creek, then downstream along Preacher Creek, Birch Creek and Lower Mouth Birch Creek to the Yukon River, then downstream along the north bank of the Yukon River (including islands) to the confluence of the Hadweenzik River, then upstream along the west bank of the Hadweenzik River to the confluence of Forty and One-Half Mile Creek, then upstream along Forty and One-Half Mile Creek to Nelson Mountain on the Unit 25(D) boundary. Residents of Beaver, Birch Creek, and Stevens Village only—1 bull by Federal registration permit only.	Aug. 25–Sept. 25, Dec. 1–Dec. 10, Feb. 18–Feb. 28.
Remainder of Unit 25(D) Residents of Unit 25 excluding residents of the western portion of Unit 25(D) described above—1 bull.	Aug. 25–Sept. 25, Dec. 1–Dec. 10.
Unit 26(A)—1 moose; however, no person may take a cow accompanied by a calf	Aug. 1–Dec. 31.
Unit 26(B), that portion within two miles of the Dalton Highway	No open season.
Remainder of Unit 26(B), and Unit 26(C)—1 moose	Aug. 1–Dec. 31.
Muskox—seasons and bag limits	
Units 26(B) and 26(C); Residents of Kaktovik only—1 muskox by Federal registration permit only	Oct. 1–Oct. 31, Mar. 1–Mar. 31.
Wolf—seasons and bag limits	
Units 1–5—No limit	No closed season.
Units 6, 8, and 10—2 wolves	Aug. 10–Apr. 30.
Units 7, 14(C) and 15—1 wolf	Aug. 10–Apr. 30.
Units 9, 17, 19, 21, 23, 24, and 25(B)—(D)—10 wolves	Aug. 10–Apr. 30.
Units 11, 12, 13, 20, 22, 25(A), and 26—No limit	Aug. 10–Apr. 30.
Units 14(A) and (B), 16, and 18—4 wolves	Aug. 10–Apr. 30.
Wolverine—seasons and bag limits	
Units 1–5—1 wolverine	Nov. 10–Feb. 15.
Units 6–26—1 wolverine	Sept. 1–Mar. 31.

FUR ANIMALS

Units and Bag Limits	Subsistence Open Season
Coyote—seasons and bag limits	
Units 1–5, 6(A), 6(D), and 8–14, and 18–2—2 coyotes	Sept. 1–Apr. 30.
Units 6(B) and 6(C)—No limit	No closed season.
Units 7 and 15—No limit	Sept. 1–Apr. 30.
Arctic fox—seasons and bag limits (including blue and white phases)	
Units 9 and 17—No limit	Dec. 1–Mar. 15.

FUR ANIMALS—Continued

Units and Bag Limits	Subsistence Open Season
Unit 10—No limit	No closed season.
Units 18, 22, 23, and 26—2 foxes	Sept. 1–Apr. 30.
Red fox—seasons and bag limits (including cross, black, and silver phases)	
Units 1–14, 16–26—2 foxes	Nov. 1–Feb. 15.
Unit 15	No open season.
Lynx—seasons and bag limits	
Units 1–5—2 lynx	Dec. 1–Feb. 15.
Units 8, 11, 13, 14, and 16—2 lynx	Dec. 15–Jan. 15.
Units 7, 8, 10, and 15—2 lynx	No open season.
Units 9 and 17—2 lynx	Nov. 10–Feb. 28.
Units 12 and 20(E)—2 lynx	Nov. 1–Jan. 31.
Unit 18—2 lynx	Nov. 10–Mar. 31.
Remainder of Unit 20, and Unit 25(C)—2 lynx	Dec. 1–Jan. 1.
Unit 23—2 lynx	Dec. 1–Jan. 15.
Units 19, 21, 24, and remainder of Unit 25—2 lynx	Nov. 1–Feb. 28.
Units 22 and 26—2 lynx	Nov. 1–Apr. 15.
Red squirrel, ground squirrel, flying squirrel—seasons and bag limits.	
Units 1–26—No limit	No closed season.

SMALL GAME

Units and Bag Limits	Subsistence Open Season
Grouse (spruce, blue, ruffed, and sharp-tailed)—seasons and bag limits	
Units 1–8—5 per day, 10 in possession	Aug. 1–May 15.
Units 7, 11, 13–16 (except 14(C))—15 per day, 30 in possession	Aug. 10–Mar. 31.
Units 8 and 10	No open season.
Unit 14(C)—5 per day, 10 in possession	Day after Labor Day–Mar. 31.
Units 9, 17–19, 21–24 and 26—15 per day, 30 in possession	Aug. 10–Apr. 30.
Units 12, 20 (except 20(D)) and 25(C)—15 per day, 30 in possession	Aug. 10–Mar. 31.
Unit 20(D), that portion south of the Tanana River and west of the Johnson River— 10 per day provided that not more than 2 may be sharp-tailed grouse, by falconry; 10 in possession; provided not more than 2 may be sharp-tailed grouse, by falconry only.	Aug. 10–Aug. 24.
15 per day, provided that not more than 5 may be sharp-tailed grouse; 30 in possession, provided not more than 10 may be sharp-tailed grouse.	Aug. 25–Mar. 31.
Remainder of Unit 25—15 per day, 30 in possession	Aug. 10–Apr. 30.
Snowshoe and Arctic Hares—seasons and bag limits	
Units 1–5—5 per day	Sept. 1–Apr. 30.
Units 6–26, except 14(A) and 14(C). No limit.	No closed season.
Unit 14(A)—5 per day	No closed season.
Unit 14(C)—5 per day	Day after Labor Day–Apr. 30.
Ptarmigan (Rock, willow, and white-tailed)—seasons and bag limits	
Units 1–8—20 per day, 40 in possession	Aug. 1–May 15.
Units 7, 11, 13–16 (except 14(A), 14(C), and 15(C)) 20 per day, 40 in possession	Aug. 10–Mar. 31.
Unit 14(A)—10 per day, 20 in possession	Aug. 10–Mar. 31.
Unit 14(C)—10 per day, 20 in possession	Day after Labor Day–Mar. 31.
Unit 15(C)— 10 per day, 20 in possession	Aug. 10–Dec. 31.
5 per day, 10 in possession	Jan. 1–Mar. 31.
Units 8–10, 12, 17–19, and 21–26 (except 25(C))—20 per day, 40 in possession	Aug. 10–Apr. 30.
Units 20 and 25(C), those portions within 5 miles of Alaska Route 6 (Steese Hwy.) and Route 5 (Taylor Hwy. both to Eagle and the Alaska-Canada boundary), and that portion of Route 4 (Richardson Hwy.) south of Delta Junction— 20 per day, 40 in possession.	Aug. 10–Mar. 31.
Remainder of Units 20 and 25(C)—20 per day, 40 in possession	Aug. 10–Apr. 30.

WATERFOWL

Units and Bag Limits	Subsistence Open Season
Ducks (except sea ducks)—seasons and bag limits	
Units 1–4—5 per day and 15 in possession; however, not more than 2 per day and 6 in possession may be pintail ducks, and not more than 1 per day and 1 in possession may be canvasbacks.	Sept. 1–Dec. 16.
Units 5–7, 9, 10 (Unimak Island only), and 14–16—6 per day and 16 in possession; however, not more than 2 per day and 6 in possession may be pintail ducks, and not more than 1 per day and 1 in possession may be canvasbacks.	Sept. 1–Dec. 16.
Units 8 and 10, (except Unimak Island)—5 per day and 15 in possession; however, not more than 2 per day and 6 in possession may be pintail ducks, and not more than 1 per day and 1 in possession may be canvasbacks.	Oct. 8–Jan. 22.
Units 11–13 and 17–26—8 per day and 24 in possession; however, not more than 2 per day and 6 in possession may be pintail ducks, and not more than 1 per day and 1 in possession may be canvasbacks.	Sept. 1–Dec. 16.

Waterfowl—Continued

Units and bag limits	Subsistence open season
Sea ducks (eider, scoter, old squaw, harlequin) and mergansers—seasons and bag limits	
Units 1-7, 9, 10 (Unimak Is. only), and 11-26—15 per day, 30 in possession	Sept. 1-Dec. 16.
Units 8 and 10 (except Unimak Is.)—15 per day, 30 in possession	Oct. 8-Jan. 22.
Geese, cackling Canada—seasons and bag limits	
Units 1-26	No open season.
Geese, Canada (except cackling Canada)—seasons and bag limits	
Units 1-4, 7, 9 (except 9(E)), 10 (Unimak Island only), 11-17, and 19-26 4 per day, 8 in possession	Sept. 1-Dec. 16.
Units 5 and 8—4 per day, 8 in possession	Sept. 21-Dec. 16.
Units 8, 9(E), 10 (except Unimak Island) and 18	No open season.
Geese, White-fronted—seasons and bag limits	
Units 1-7, 9, and 14-18—2 per day, 4 in possession	Sept. 1-Dec. 16.
Unit 8—2 per day, 4 in possession	Oct. 8-Jan. 22.
Unit 10 (except Unimak Island) 4 per day, 8 in possession	Oct. 8-Jan. 22.
Unit 10 (Unimak Island only), 11-13, and 19-26—4 per day, 8 in possession	Sept. 1-Dec. 16.
Geese, Snow—seasons and bag limits	
Unit 1 (except 1(C)), 2-7, 9, 10 (Unimak Island only), and 11-26—6 per day, 12 in possession	Sept. 1-Dec. 16.
Unit 1(C)	No open season.
Units 8 and 10 (except Unimak Island)	Oct. 8-Jan. 22.
Brant—seasons and bag limits	
Units 1-7, 9, 10 (Unimak Island only), and 11-26—2 per day, 4 in possession	Sept. 1-Dec. 16.
Units 8 and 10 (except Unimak Island) 2 per day, 4 in possession	Oct. 8-Jan. 22.
Emperor Geese—seasons and bag limits	
Units 1-26	No open season.
Cranes—seasons and bag limits	
Units 1-7, 9, 10 (Unimak Island only), and 14-17—2 per day, 4 in possession	Sept. 1-Dec. 16.
Units 8 and 10 (except Unimak Island) 2 per day, 4 in possession	Oct. 8-Jan. 22.
Units 11, 12, 13 and 18-26—3 per day, 6 in possession	Sept. 1-Dec. 16.
Snipe—seasons and bag limits	
Units 1-7, 9, 10 (Unimak Island only), and 11-26—8 per day, 16 in possession	Sept. 1-Dec. 16.
Units 8 and 10 (except Unimak Island)—8 per day, 16 in possession	Oct. 8-Jan. 22.
Tundra Swans—seasons and bag limits	
Unit 22—1 swan, by registration permit only	Sept. 1-Oct. 30.
All other units	No open season.

Note.—The total combined bag limit for all Canada, white-fronted and snow geese is 6 per day and 12 in possession. In no unit may more than 4 per day, 8 in possession be any combination of Canada and white-fronted geese. In Units 1-9, and 14-18 no more than 2 per day, 4 in possession may be white-fronted geese.

UNCLASSIFIED GAME

Units and bag limits	Subsistence open season
Bat, shrew, rat, mouse, and porcupine—seasons and bag limits	
Units 1-26—No limit	No closed season.
Raven—seasons and bag limits	
Units 1-26	No open season.
Cormorant—seasons and bag limits	
Units 10, 17, 18, 22, and 23 No limit; however, a bird may only be taken if used for food or clothing, and no bird may be sold or offered for sale.	No closed season.
Crow—seasons and bag limits	
Units 1-9 and 15—40 per day	Mar. 1-Apr. 15, Sept. 1-Nov. 17.
Units 10-14 and 16-26	No open season.
Snowy Owl—seasons and bag limits	
Units 17, 18, 22, 23, and 26—No limit; however, a bird may only be taken if used for food or clothing, and no bird may be sold or offered for sale.	No closed season.
Units 1-16, 19-21, 24, and 25	No open season.
Magpie—seasons and bag limits	
Units 1-26	No open season.
Raccoon—seasons and bag limits	
Units 1-26—No limit	No closed season.

(w) Subsistence Trapping Seasons and Bag Limits.

It is lawful to trap for subsistence

purposes a fur bearer only in a game management unit or a portion of a unit open to trapping in accordance with the open season and bag limit prescribed in

this subsection. Bag limits and open seasons are based upon the regulatory year.

TRAPPING SEASONS—FUR BEARERS

Units and bag limits	Subsistence open season
Beaver—trapping seasons and bag limits	
Units 1 (except Unit 1(D)), 2, 3 (except Mitkof Island), and 4 (that portion east of Chatham Strait)—No limit	Dec. 1–May 15.
Unit 1(D)	No open season.
Unit 3, Mitkof Island—No limit	Dec. 1–Apr. 15.
Unit 4 (that portion west of Chatham Strait)	No open season.
Unit 5—No limit	Nov. 10–May 15.
Unit 6—20 per season	Feb. 1–Mar. 31.
Units 7 and 15—20 per season	Feb. 1–Mar. 31.
Units 8, 11, 13, 14(A), 14(B), and 16—30 per season	Nov. 10–Apr. 30.
Unit 9—40 per season	Jan. 1–Mar. 31.
Units 10 and 26	No open season.
Unit 12—15 per season	Nov. 1–Apr. 15.
Unit 14(C), that portion within the drainages of Glacier Creek, Kern Creek, Peterson Creek, and the Twentymile River—20 per season.	Feb. 1–Mar. 31.
Remainder of Unit 14(C)	No open season.
Unit 17(A)—20 per season	Jan. 1–Jan. 31.
Units 17(B) and 17(C)—20 per season	Jan. 1–Feb. 28.
Unit 18—No limit	Nov. 1–June 10.
Units 19, 21, and 24—50 per season	Nov. 1–Apr. 15.
Unit 20(A)—25 per season	Feb. 1–Apr. 15.
Unit 20(B), that portion of the Chena River downstream from its confluence with the Little Chena River, and Badger (Piledriver) Sough downstream from Plack Road.	No open per season; however, seasons may be set and bag limits, by permit only, to curb high beaver populations and reduce property damage.
Remainder of Unit 20(B) and Units 20(C), 20(E), and that portion of 20(D) draining into the north bank of the Tanana River, including the islands in the Tanana River—25 per season.	Nov. 1–Apr. 15.
Remainder of Unit 20(D)—15 per season	Feb. 1–Apr. 15.
Units 20(F) and 25 (except Unit 25(C))—50 per season	Nov. 1–Apr. 15.
Units 22(A) and 22(B)—50 per season	Nov. 1–June 10.
Remainder of Unit 22—50 per season	Nov. 1–Apr. 15.
Unit 23, the Kobuk and Selawik River drainages—50 per season	Nov. 1–June 10.
Remainder of Unit 23—30 per season	Nov. 1–June 10.
Unit 25(C)—25 per season	Nov. 1–Apr. 15.
Coyote—trapping seasons and bag limits	
Units 1–5—No limit	Dec. 1–Feb. 15.
Unit 6(C), that portion south of the Copper River Highway and east of the Heney Range—No limit	Nov. 10–Apr. 30.
Remainder of Unit 6, and Units 9–11, 13, 14(A), 14(B), and 16–18—No limit	Nov. 10–Mar. 31.
Units 7, 14(C), and 15—No limit	Nov. 10–Feb. 28.
Units 12 and 20(E)—No limit	Nov. 1–Feb. 28.
Units 19, 20 (except 20(E)), 21, 24, and 25—No limit	Nov. 1–Mar. 31.
Units 22, 23, and 26—No limit	Nov. 1–Apr. 15.
Fox, arctic, white, or blue—trapping seasons and bag limits	
Units 9, 10, and 17—No limit	Nov. 10–Feb. 28.
Unit 18—No limit	Nov. 10–Mar. 31.
Units 22, 23, and 26—No limit	Nov. 1–Apr. 15.
Fox, red (including the cross, black, or silver color phases)—trapping seasons and bag limits	
Units 1–5—No limit	Dec. 1–Feb. 15.
Units 6, 9–11, 13, 14(A), 14(B), 16, and 17—No limit	Nov. 10–Feb. 2.
Units 7, 14(C), and 15—One per season	Nov. 10–Feb. 28.
Unit 8—No limit	Nov. 10–Mar. 31.
Units 12, 20, 21, 24, and 25—No limit	Nov. 1–Feb. 28.
Unit 18—No limit	Nov. 10–Mar. 31.
Unit 19—No limit	Nov. 1–Mar. 31.
Units 22, 23, and 26—No limit	Nov. 1–Apr. 15.
Lynx—trapping seasons and bag limits	
Units 1–5—No limit	Dec. 1–Feb. 15.
Units 6, 11, 13, 14, 16—No limit	Dec. 15–Jan. 15.
Units 7, 8, 10, and 15	No open season.
Unit 18—No limit	Nov. 10–Mar. 31.
Units 9 and 17—No limit	Nov. 10–Feb. 28.
Units 12 and 20(E)—No limit	Nov. 1–Jan. 31.
Unit 19—No limit	Nov. 1–Feb. 28.
Remainder of Unit 20 and Unit 25(C)—No limit	Dec. 1–Jan. 31.
Unit 21—No limit	Nov. 1–Feb. 28.
Units 22 and 26—No limit	Nov. 1–Apr. 15.
Unit 23—Three lynx	Dec. 1–Jan. 15.
Unit 24—No limit	Nov. 1–Feb. 28.
Remainder of Unit 25—No limit	Nov. 1–Feb. 28.
Marten—trapping seasons and bag limits	
Units 1–4—No limit	Dec. 1–Feb. 15.
Unit 5—No limit	Nov. 10–Feb. 15.
Units 6–8, 11, and 13–16—No limit	Nov. 10–Jan. 31.
Units 9 and 17—No limit	Nov. 10–Feb. 28.
Units 12, 19, 20, 21, 24, and 25—No limit	Nov. 1–Feb. 28.
Unit 18—No limit	Nov. 10–Mar. 31.
Units 22, 23, and 26—No limit	Nov. 1–Apr. 15.

TRAPPING SEASONS—FUR BEARERS—Continued

Units and bag limits	Subsistence open season
Mink and weasel—trapping seasons and bag limits	
Units 1-4—No limit	Dec. 1-Feb. 15.
Unit 5—No limit	Nov. 10-Feb. 15.
Units 6-8, 11, 13-16, and 18—No limit	Nov. 10-Feb. 28.
Units 9, 10, and 17—No limit	Nov. 10-Feb. 28.
Units 12, 19, 20, 21, 24, and 25—No limit	Nov. 1-Feb. 28.
Units 22, 23, and 26—No limit	Nov. 1-Jan. 31.
Muskrat—trapping seasons and bag limits	
Units 1-5—No limit	Dec. 1-Feb. 15.
Units 6, 8-11, 13, and 16-18—No limit	Nov. 10-June 10.
Units 7, 14, and 15—No limit	Nov. 10-May 15.
Units 12 and 20(E)—No limit	Sept. 20-June 10.
Units 19, 20 (except 20(E)), and 21-26—No limit	Nov. 1-June 10.
Otter—land trapping seasons and bag limits	
Units 1-4—No limit	Dec. 1-Feb. 15.
Unit 5—No limit	Nov. 10-Feb. 15.
Units 6, 9-11, 13, 14(A), 14(B), and 16-18—No limit	Nov. 10-Mar. 31.
Units 7, 14(C), and 15(C)—No limit	Nov. 10-Feb. 28.
Unit 8—No limit	Nov. 10-Jan. 31.
Units 11 and 13—No limit	Nov. 10-Apr. 15.
Units 12 and 19-26—No limit	Nov. 1-Apr. 15.
Units 15(A) and 15(B)—No limit	Nov. 10-Jan. 31.
Otter, sea—trapping seasons and bag limits	
Units 1-26	No open season.
Squirrel (red, flying, parka, or ground) and marmot—trapping seasons and bag limits	
Units 1-26—No limit	No closed season.
Wolf—trapping seasons and bag limits	
Units 1-5—No limit	Nov. 10-Apr. 30.
Units 6, 9, 10, 11, 13, 14(A), 14(B), and 16-18—No limit	Nov. 10-Mar. 31.
Units 7, 14(C), and 15—No limit	Nov. 10-Feb. 28 (season may be closed by emergency order).
Units 12 and 20(E)—No limit	Oct. 1-Apr. 30.
Units 19, 20 (except 20(E)), 21, 24, and 25—No limit	Nov. 1-Mar. 31.
Units 22, 23, and 26—No limit	Nov. 1-Apr. 15.
Wolverine—trapping seasons and bag limits	
Units 1-5—No limit	Nov. 10-Apr. 30.
Units 6-11, 13, 14, 15(B), 15(C), 16, and 17—No limit	Nov. 10-Feb. 28.
Unit 15(A)	No open season.
Units 12, 20, and 25(C)—No limit	Nov. 1-Feb. 28.
Unit 18—No limit	Nov. 10-Mar. 31.
Units 19, 21, 24, and 25 (except 25(C))—No limit	Nov. 1-Mar. 31.
Units 22, 23, and 26—No limit	Nov. 1-Apr. 15.

(x) A fur bearer may only be taken under this section by a person who possesses a valid State of Alaska trapping license, or by a resident of Alaska under the age of 16.

§ 24 Subsistence fishing.

(a) Regulations in this section apply to subsistence fishing for salmon, herring, pike, bottomfish, smelt, and other types of finfish or their parts except halibut, and aquatic plants only on public lands in Alaska (derived from 5 AAC 01.001).

(b) Aquatic plants and finfish other than salmon may be taken for subsistence purposes at any time on any public lands in the State of Alaska by any method unless restricted by the subsistence fishing regulations in this section. Salmon may be taken for subsistence purposes only as provided in this section (derived from 5 AAC 01.005).

(c) The following definitions shall apply to all regulations contained in this

section and in § 26 (derived from 5 AAC 39.105(d) and 39.975).

Abalone Iron is a flat device used for taking abalone and which is more than one inch (24mm) in width and less than 24 inches (61 cm) in length and with all prying edges rounded and smooth.

Anchor is a device used to hold a salmon fishing vessel or net in a fixed position relative to the beach; this includes using part of the seine or lead, a ship's anchor or being secured to another vessel or net that is anchored.

Bag Limit means the maximum legal take per person or designated group, per specified time period, even if part or all of the fish are preserved.

Beach seine is a floating net designed to surround fish which is set from and hauled to the beach.

Beam trawl is a trawl with a fixed net opening using a wood or metal beam.

Crab means the following species:

Paralithodes camshatica (red king crab);

Paralithodes platypus (blue king crab); *Lithodes couesi*; *Lithodes aequispina* (brown king crab); all species of the genus *Chionoecetes* (tanner or snow crab); *Cancer magister* (Dungeness crab).

Dipnet is a bag-shaped net supported on all sides by a rigid frame; the maximum straight-line distance between any two points on the net frame, as measured through the net opening, may not exceed five feet; the depth of the bag must be at least one-half of the greatest straight-line distance, as measured through the net opening; no portion of the bag may be constructed of webbing that exceeds a stretched measurement of 4.5 inches; the frame must be attached to a single rigid handle and be operated by hand.

Diving Gear is any type of hard hat or skin diving equipment.

Drainage means all of the waters comprising a watershed including tributary rivers, streams, sloughs, ponds

and lakes which contribute to the supply of the watershed.

Drift gill net is a drifting gill net that has not been intentionally staked, anchored or otherwise fixed.

Fishing Site means a structure or vessel used by an Alaska Commercial Fisheries Entry Commission permit holder for providing shelter in support of the operation of stationary net gear.

Fishwheel is a fixed, rotating device for catching fish which is driven by river current or other means of power.

Freshwater of streams and rivers means the line at which freshwater is separated from saltwater at the mouth of streams and rivers by a line drawn between the seaward extremities of the exposed tideland banks at the present stage of the tide.

Fyke net is a fixed, funneling (fyke) device used to entrap fish.

Gear means any type of fishing apparatus.

Gill net is a net primarily designed to catch fish by entanglement in the mesh and consisting of a single sheet of webbing hung between cork line and lead line, and fished from the surface of the water.

Grappling hook is a hooked device with flukes or claws and attached to a line and operated by hand.

Groundfish—Bottomfish means any marine finfish except halibut, osmerids, herring and salmonids.

Hand purse seine is a floating net designed to surround fish and which can be closed at the bottom by pursing the lead line; pursing may only be done by hand power, and a free-running line through one or more rings attached to the lead line is not allowed.

Hand troll gear consists of a line or lines with lures or baited hooks which are drawn through the water from a vessel by hand trolling, strip fishing or other types of trolling, and which are retrieved by hand power or hand-powered crank and not by any type of electrical, hydraulic, mechanical or other assisting device or attachment.

Herring pound is an enclosure used primarily to retain herring alive over extended periods of time.

Hung measure means the maximum length of the cork line when measured wet or dry with traction applied at one end only.

Hydraulic clam digger is a device using water or a combination of air and water to remove clams from their environment.

Inclusive season dates means whenever the doing of an act between certain dates or from one date to another is allowed or prohibited, the period of time thereby indicated includes both dates specified; the first

date specified designates the first day of the period, and the second date specified designates the last day of the period.

Lead is a length of net employed for guiding fish into a seine or set gill net.

Legal limit of fishing gear means the maximum aggregate of a single type of fishing gear permitted to be used by one individual or boat, or combination of boats in any particular regulatory area, district or section.

Long line is a stationary buoyed or anchored line or a floating, free drifting line with lures or baited hooks attached.

Mechanical clam digger is a mechanical device used or capable of being used for the taking of clams.

Mechanical jigging machine is a mechanical device with line and hooks used to jig for halibut and bottomfish, but does not include hand gurdies or rods with reels.

Net gear site means the in-water location of stationary net gear.

Otter trawl is a trawl with a net opening controlled by devices commonly called otter doors.

Pelagic trawl is a trawl where the net, or the trawl doors or other trawl-spreading device, do not operate in contact with the seabed, and which does not have attached to it any protective device, such as chafing gear, rollers, or bobbins, that would make it suitable for fishing in contact with the seabed.

Possession limit means the maximum number of fish a person or designated group may have in possession if the fish have not been canned, salted, frozen, smoked, dried or otherwise preserved so as to be fit for human consumption after a 15-day period.

Pot is a portable structure designed and constructed to capture and retain fish and shellfish alive in the water.

Power gurdy troll gear consists of a line or lines with lures or baited hooks which are drawn through the water by a power gurdy.

Purse seine is a floating net designed to surround fish and which can be closed at the bottom by means of a free-running line through one or more rings attached to the lead line.

Ring net is a bag-shaped net suspended between no more than two frames; the bottom frame may not be larger in perimeter than the top frame; the gear must be non-rigid and collapsible so that when fishing it does not prohibit free movement of fish or shellfish across the top of the net.

Rockfish means all species of the genus *Sebastes*.

Salmon stream means any stream used by salmon for spawning or for traveling to a spawning area.

Salmon stream terminus means a line drawn between the seaward extremities of the exposed tideland banks of any salmon stream at mean lower low water.

Scallop dredge is a dredge-like device designed specifically for and capable of taking scallops by being towed along the ocean floor.

Seine vessel means the largest vessel, as determined by keel length, used to operate a seine and the vessel from which the seine is set, and to which the seine is retrieved.

Set gill net is a gill net that has been intentionally set, staked, anchored, or otherwise fixed.

Shovel is a hand-operated implement for digging clams or cockles.

Stretched measure means the average length of any series of 10 consecutive meshes measured from inside the first knot and including the last knot when wet after use, the 10 meshes, when being measured, shall be an integral part of the net, as hung, and measured perpendicular to the selvages; measurements shall be made by the means of a metal tape measure while the 10 meshes being measured are suspended vertically from a single peg or nail, under the five-pound weight, except as otherwise provided.

To operate fishing gear means the deployment of gear in the waters of Alaska, the removal of gear from the waters of Alaska, the removal of fish or shellfish from the gear during an open season or period, or possession of a gill net containing fish during an open fishing period, except that a gill net which is completely clear of the water is not considered to be operating for the purposes of minimum distance requirements.

Trawl is a bag-shaped net towed through the water to capture fish or shellfish.

(d) Methods, Means, and General Restrictions. (1) The bag limit specified herein for a subsistence season for a species and the State bag limit set for a State general season for the same species are not cumulative. This means that a person or designated group who has taken the bag limit for a particular species under a subsistence season specified herein may not after that, take any additional fish of that species under any other bag limit specified for a State general season.

(2) Unless otherwise provided in this chapter, the following are legal types of gear for subsistence fishing (derived from 5 AAC 01.010):

(i) Gear specified in paragraph c of this section.

(ii) Jigging gear which consists of a line or lines with lures or baited hooks which are operated during periods of ice cover from holes cut in the ice and are drawn through the water by hand;

(iii) A spear which is a shaft with a sharp point or fork-like implement attached to one end, used to thrust through the water to impale or retrieve fish and is operated by hand;

(iv) A lead which is a length of net employed for guiding fish into a seine or a length of net or fencing employed for guiding fish into a fishwheel, fyke net or dip net.

(3) Gill nets used for subsistence fishing for salmon may not exceed 50 fathoms in length, unless otherwise specified by the regulations in particular areas set forth in this section.

(4) It is prohibited to buy or sell subsistence-taken fish, their parts, or their eggs, unless otherwise specified in this section or unless, prior to the sale, the prospective buyer or seller obtains a determination from the Board that the sale constitutes customary trade.

(5) Fishing for, taking or molesting any fish by any means, or for any purpose, is prohibited within 300 feet of any dam, fish ladder, weir, culvert or other artificial obstruction.

(6) The use of explosives and chemicals is prohibited.

(7) Subsistence fishing by the use of a line attached to a rod or pole is prohibited except when fishing through the ice in the Kotzebue-Northern, Norton Sound-Port Clarence, Yukon, Kuskokwim and Bristol Bay areas.

(8) Each person subsistence fishing shall plainly and legibly inscribe his/her first initial, last name, and address on his/her fishwheel, or on a keg or buoy attached to gill nets and other unattended subsistence fishing gear.

(9) All pots used to take fish must contain an opening in the webbing of a side wall of the pot which has been laced, sewn or secured together by untreated cotton twine or other natural fiber no larger than 120 thread, which upon deterioration or parting of the twine produces an opening in the web with a perimeter equal to or exceeding one half of the tunnel eye opening perimeter.

(10) Persons licensed by the State of Alaska under Alaska Statutes to engage in a fisheries business may not receive for commercial purposes or barter or solicit to barter for subsistence-taken salmon or their parts. Further restrictions on the bartering of subsistence-taken salmon or their parts may be implemented by the Federal Subsistence Board if necessary.

(11) Gill net web must contain at least 30 filaments and all filaments must be of

equal diameter, or the web must contain at least six filaments, each of which must be at least 0.20 millimeter in diameter.

(12) Except as provided elsewhere in this regulation, the taking of rainbow trout and steelhead is prohibited.

(13) Fish taken for subsistence use or under subsistence fishing regulations may not be subsequently used as bait for commercial and sport fishing purposes.

(14) The use of live nonindigenous fish as bait is prohibited.

(e) Unlawful Possession of Subsistence Fish.—No person may possess, transport, give, receive or barter subsistence-taken fish or their parts that the person knows or should know were taken in violation of Federal or State statute or a regulation promulgated thereunder (derived from 5 AAC 01.030).

(f) Descriptions of Fishery Management Areas and Pertinent Restrictions.

(1) Kotzebue-Northern Area. The Kotzebue-Northern Area includes all waters of Alaska north of the latitude of the westernmost tip of Cape Prince of Wales and west of 141° W. long., including those waters draining into the Chukchi Sea and Arctic Ocean.

(i) Northern District: All waters of Alaska north of the latitude of the westernmost tip of Point Hope and west of 141° West longitude, including those waters draining into the Arctic Ocean and Chukchi Sea.

(ii) Kotzebue District: All waters of Alaska between the latitude of the westernmost tip of Point Hope and the latitude of the westernmost tip of Cape Prince of Wales, including those waters draining into the Chukchi Sea.

(A) Subdistrict 1: All waters east of a line from the terminus of the Tukrok River to an Alaska Department of Fish and Game regulatory marker located on the sandbar at 66°49' North latitude, 162°55' West longitude to an Alaska Department of Fish and Game marker located approximately two miles off Riley Wreck to an Alaska Department of Fish and Game marker located on the west bank of Riley Creek at 66°43' North latitude, 162°19' West longitude, and west of a line from a point one mile offshore from an ADF&G regulatory marker placed on the north shore of Hotham Inlet at 67°02' N.lat., 161°59' W.long., to a point one mile offshore from an ADF&G regulatory marker placed on the northern shore of the Baldwin Peninsula near the terminus of Singigrachak Creek (66°09' N.lat., 162°11' W.long.).

(B) Subdistrict 2: All waters at the mouth of the Noatak River inside a

triangle defined by three points: the first point is located at the outlet of a small slough on the east side of the Noatak River at 66°59' North latitude, 162°28' West longitude; the west side of the triangle is located on a mud bar on the west side of the Noatak River extending between 66°77' North latitude, 162°34' West longitude and 66°57' North latitude, 162°32' West longitude;

(C) Subdistrict 3: All remaining waters in the Kotzebue District.

(iii) Fish may be taken at any time except that during the weekly fishing closures of the commercial salmon fishing season in the Kotzebue District commercial fishermen may not fish for subsistence programs.

(iv) Allowed gear and specifications

(A) Salmon may be taken only by gill nets or beach seines.

(B) Fish other than salmon may be taken by set gill net, drift gill net, beach seine, fishwheel, pot, long line, fyke net, dip net, jigging gear, spear, and lead.

(C) A gill net may obstruct not more than one-half the width of any fish stream. A stationary fishing device may obstruct not more than one-half the width of any salmon stream.

(D) In the Kotzebue District, kegs or buoys attached to subsistence gill nets may be any color except red.

(E) In the Kotzebue District, gill nets used to take sheefish may not be more than 50 fathoms in aggregate length nor 12 meshes in depth, nor have a mesh size larger than seven inches.

(F) Each fishwheel must have the first initial, last name, and address of the operator plainly and legibly inscribed on the side of the fishwheel facing midstream of the river.

(G) For all gill nets and unattended gear that are fished under the ice, the first initial, last name, and address of the operator must be plainly and legibly inscribed on a stake inserted in the ice and attached to the gear.

(v) Waters closed to subsistence fishing.—In the Kotzebue District, the Noatak River one mile upstream and one mile downstream from the mouth of the Kelly River, and the Kelly River from its mouth to one-fourth mile upstream are closed to subsistence char fishing from June 1 through September 20.

(vi) Fish may be taken for subsistence purposes without a subsistence fishing permit.

(vii) Only those residents domiciled in the Northern District, except for those domiciled in State of Alaska Game Management Unit 26-B, may take fish in that district.

(viii) Only those residents domiciled within 20 miles of the coast between Cape Prince of Wales and Point Hope,

including the village of Noatak, may take herring and herring roe in that location.

(ix) Only those residents domiciled in the Kotzebue District may take salmon, sheefish, and char in the district.

(2) Norton Sound-Port Clarence Area. The Norton Sound-Port Clarence Area includes all waters of Alaska between the latitude of the westernmost tip of Cape Prince of Wales and the latitude of Canal Point Light, including the waters of Alaska surrounding St. Lawrence and those waters draining into the Bering Sea.

(i) The Port Clarence District consists of all waters between the latitude of the westernmost tip of Cape Prince of Wales and the latitude of the westernmost tip of Cape Douglas.

(ii) The Norton Sound District consists of all waters between the latitude of the westernmost tip of Cape Douglas and the latitude of Canal Point Light. The following are regulatory subdistricts of the Norton Sound District:

(A) Subdistrict 1 consists of waters from the terminus of Penny River to the tip of Topkok Head;

(B) Subdistrict 2 consists of waters from the tip of Rocky Point to the southernmost tip of Cape Darby;

(C) Subdistrict 3 consists of waters from an Alaska Department of Fish and Game regulatory marker located three-fourths of a mile east of Elim village on Elim Point to the terminus of the Kwik River;

(D) Subdistrict 4 consists of waters from the terminus of the Kuiuutuk River located eight miles southwest of Koyuk to the tip of Island Point;

(E) Subdistrict 5 consists of waters from the westernmost tip of Cape Denbigh to the terminus of Junction Creek located seven miles north of Egavik;

(F) Subdistrict 6 consists of waters from the terminus of Junction Creek located seven miles north of Egavik to the tip of Black Point.

(iii) In the Port Clarence District, fish may be taken at any time except that during the period July 1 through August 15, salmon may only be taken from 6:00 p.m. Thursday until 6:00 p.m. Tuesday.

(iv) In the Norton Sound District, fish may be taken at any time except as follows:

(A) In Subdistrict 1 from June 15 through August 31, salmon may be taken only from 6:00 p.m. Monday until 6:00 p.m. Wednesday and from 6:00 p.m. Thursday until 6:00 p.m. Saturday.

(B) In Subdistricts 2 through 6, commercial fishermen may not fish for subsistence purposes during the weekly closures of the commercial salmon fishing season, except that from July 15

through August 1, commercial fishermen may take salmon for subsistence purposes seven days per week in the Unalakleet and Shaktoolik River drainages with gill nets which have a mesh size that does not exceed 4½ inches, and with beach seines.

(C) In the Unalakleet River from June 1 through July 15, salmon may be taken from 8:00 a.m. Monday until 8:00 p.m. Saturday.

(v) Salmon may only be taken by gill net, beach seine, or fishwheel.

(vi) Fish other than salmon may be taken by set gill net, drift net, beach seine, fishwheel, pot, long line, fyke net, jigging gear, spear, and lead.

(vii) A gill net may not obstruct more than one-half the width of any fish stream. A stationary fishing device may obstruct not more than one-half the width of any salmon stream.

(viii) In the Norton Sound District, kegs or buoys attached to subsistence gill nets may be any color except red.

(ix) Gill nets with a mesh size of less than 4½ inches and beach seines may not be used in the Sinuk River upstream of Alaska Department of Fish and Game regulatory markers placed two miles above the mouth, in the Nome River, and in the Solomon River upstream from Alaska Department of Fish and Game regulatory markers placed near the village of Solomon.

(x) In the Nome River, no person may operate more than 50 feet of gill net in the aggregate.

(xi) In the Unalakleet River from June 1 through July 15, no person may operate more than 25 fathoms of gill net in the aggregate.

(xii) Each fishwheel must have the first initial, last name, and address of the operator plainly and legibly inscribed on the side of the fishwheel facing midstream of the river;

(xiii) For all gill nets and unattended gear that are fished under the ice, the first initial, last name, and address of the operator must be plainly and legibly inscribed on a stake inserted in the ice and attached to the gear.

(xiv) In the Norton Sound District, fish may not be taken for subsistence purposes seaward of the mouth of the Unalakleet River in an area between Alaska Department of Fish and Game regulatory markers on each side of the river to an outer line established by Alaska Department of Fish and Game regulatory markers and buoys.

(xv) In the Port Clarence District, Salmon Lake, its tributaries, and within 300 feet of Alaska Department of Fish and Game regulatory markers placed at the outlet of Salmon Lake, are closed to subsistence fishing from July 15 through August 31.

(xvi) The Nome River, from its terminus upstream for a distance of 200 yards and upstream from an Alaska Department of Fish and Game regulatory marker located near Osborn, is closed to the taking of fish.

(xvii) Except as provided in this subsection, fish may be taken for subsistence purposes without a subsistence fishing permit. A subsistence fishing permit is required as follows:

(A) In the Port Clarence District: Pilgrim River drainage including Salmon Lake;

(B) In the Norton Sound District: for net fishing in all waters from Cape Douglas to Rocky Point.

(xviii) Only one subsistence fishing permit will be issued to each household per year.

(xix) Only those residents domiciled within 20 miles of the coast between Cape Romanoff and Cape Prince of Wales and on St. Lawrence Island, may take herring and herring roe in those locations.

(xx) Only those residents domiciled in the Norton Sound-Port Clarence Area may take salmon in that area.

(3) Yukon Area. The Yukon Area includes all waters of Alaska between the latitude of Canal Point Light and the latitude of the westernmost point of the Naskonat Peninsula, including those draining into the Bering Sea.

(i) District 1 consists of that portion of the Yukon River drainage from its terminus upstream to the northern edge of the mouth of the Anuk River and all waters of the Black River including waters within one nautical mile of its terminus.

(ii) District 2 consists of that portion of the Yukon River drainage from the northern edge of the mouth of the Anuk River upstream to an Alaska Department of Fish and Game regulatory marker located at Toklik, and includes the Anuk River drainage.

(iii) District 3 consists of that portion of the Yukon River drainage from an Alaska Department of Fish and Game regulatory marker located at Toklik upstream to an Alaska Department of Fish and Game regulatory marker at the mouth of an unnamed slough three-fourths of a mile downstream from Old Paradise Village.

(iv) District 4 consists of the Yukon River from an Alaska Department of Fish and Game regulatory marker at the mouth of an unnamed slough three-fourths of a mile downstream from Old Paradise Village upstream to the western edge of the mouth of Illinois Creek at Kallands.

(A) Subdistrict 4-A consists of that portion of the Yukon River from an Alaska Department of Fish and Game regulatory marker at the mouth of an unnamed slough three-fourths of a mile downstream from Old Paradise Village upstream to the tip of Cone Point;

(B) Subdistrict 4-B consists of the Yukon River drainage from the tip of Cone Point upstream along the north bank of the river to the westernmost edge of Illinois Creek and includes the following islands: Cook, Lark, Serpentine, Loudon, Fish, Dainty, Yuki, Melozi, Dasha, Straight, Kit, Fox, Hardluck, Mickey, Florence, Doyle, Chokoyik, Lady, Liner, Flora and Cronin;

(C) Subdistrict 4-C consists of the Yukon River drainage from the tip of Cone Point upstream along the south bank of the river to a point opposite the westernmost edge of Illinois Creek and includes the following islands: Cat, Hen, Jimmy, Big, Ninemile, Ham, Emerald, Edith, Kathaleen, Henry, Burns, Youngs, Weir, Clay, Large and Brant.

(v) District 5 consists of that portion of the Yukon River drainage (excluding the Tanana River drainage) from the western edge of the mouth of Illinois Creek to the U.S.-Canada border, and includes the Illinois Creek drainage.

(A) Subdistrict 5-A consists of the Yukon River drainage from a point opposite the westernmost edge of Illinois Creek upstream along the south bank of the river to the easternmost edge of the Tanana River mouth and includes the following islands: Basco, Sword, Leonard, Still, Tanana and Mission;

(B) Subdistrict 5-B consists of the Yukon River drainage from the westernmost edge of Illinois Creek upstream along the north bank of the river to a point opposite the easternmost edge of the Tanana River mouth upstream along both banks of the Yukon River to the westernmost tip of Garnet Island and includes the following islands: Darwin, Little Joker, Station, Tozitna, Circle, Bull and Long;

(C) Subdistrict 5-C consists of the Yukon River drainage upstream from the westernmost tip of Garnet Island to Alaska Department of Fish and Game regulatory markers located approximately two miles downstream from Waldron Creek;

(D) Subdistrict 5-D consists of the Yukon River drainage from Alaska Department of Fish and Game regulatory markers located approximately two miles downstream from Waldron Creek upstream to the U.S.-Canada border.

(vi) District 6 consists of the Tanana River drainage to its confluence with the Yukon River.

(A) Subdistrict 6-A consists of that portion of the Tanana River drainage from its mouth upstream to the eastern edge of the mouth of the Kantishna River and includes the Kantishna River drainage.

(B) Subdistrict 6-B consists of that portion of the Tanana River drainage from the eastern edge of the mouth of the Kantishna River upstream to the eastern edge of the mouth of the Wood River and includes the Wood River drainage.

(C) Subdistrict 6-C consists of the Tanana River drainage from the eastern edge of the mouth of the Wood River upstream to the eastern edge of the mouth of the Salcha River and includes the Salcha River drainage.

(vii) Unless otherwise restricted, salmon may be taken in the Yukon Area at any time.

(viii) In the following locations, salmon may be taken only during the open weekly fishing periods of the commercial salmon fishing season and may not be taken for 24 hours before the opening and 24 hours after the closure of the commercial salmon fishing season:

(A) Districts 1, 2 and 3, except:

(1) Through July 19 in Districts 1 and 2 subsistence fishing periods will be established by emergency order every other weekend during commercial salmon fishing closures;

(2) After July 19 in District 1, except for the set net only locations, and in District 2, a 24 hour subsistence fishing period will be established by emergency order each weekend during commercial salmon fishing closures;

(B) District 4, excluding the Koyukuk and Innoko River drainages;

(1) In Subdistrict 4-A from June 15 through August 1, salmon may be taken from 6:00 p.m. Sunday until 6:00 p.m. Tuesday and from 6:00 p.m. Wednesday until 6:00 p.m. Friday;

(2) In Subdistricts 4-B and 4-C from June 15 through September 30, salmon may be taken from 6:00 p.m. Sunday until 6:00 p.m. Tuesday and from 6:00 p.m. Wednesday until 6:00 p.m. Friday;

(C) District 5, excluding the Tozitna River drainage and Subdistrict 5-D;

(D) District 6, excluding:

(1) The Kantishna River drainage and that portion of the Tanana River drainage upstream of the mouth of the Salcha River;

(2) Subdistrict 6-B, from the downstream end of Crescent Island to three miles upstream of the mouth of the Totchaket Slough, where salmon may be taken from 6:00 p.m. Friday until 6:00 p.m. Wednesday.

(ix) During any commercial salmon fishing season closure of greater than five days in duration, salmon may not

be taken during the following periods in the following districts:

(A) In District 4, excluding the Koyukuk and Innoko River drainages, salmon may not be taken from 6:00 p.m. Friday until 6:00 p.m. Sunday;

(B) In District 5, excluding the Tozitna River drainage and Subdistrict 5-B, salmon may not be taken from 6:00 p.m. Sunday until 6:00 p.m. Tuesday;

(C) In Subdistrict 6-A and 6-B, excluding the Kantishna River drainage and that portion of the Tanana River drainage upstream of the mouth of the Salcha River, salmon may not be taken from 6:00 p.m. Wednesday until 6:00 p.m. Friday.

(x) In Subdistrict 6-C and that portion of the Tanana River drainage upstream to the mouth of the Salcha River, salmon may not be taken following the closure of the commercial salmon fishing season from 6:00 p.m. Monday until 6:00 p.m. Friday.

(xi) Except as otherwise provided, and except as may be provided by the terms of a subsistence fishing permit, there is no closed season on fish other than salmon.

(xii) Salmon may only be taken by gill net, beach seine, or fishwheel subject to the restrictions set forth in this section.

(xiii) In Districts 1, 2, and 3, commercial fishermen may not take salmon for subsistence purposes by gill nets larger than six-inch mesh during periods established by emergency order.

(xiv) In District 4, commercial fishermen may not take salmon for subsistence purposes during the commercial salmon fishing season by gill nets larger than six inch mesh after a date specified by emergency order issued between July 10 and July 31.

(xv) In Districts 4, 5 and 6, salmon may not be taken for subsistence purposes by drift gill nets, except as follows:

(A) In Subdistrict 4-A, upstream from the mouth of Stink Creek king salmon may be taken by drift gill nets from June 21 through July 14, and chum salmon may be taken by drift gill nets after August 2;

(B) No person may operate a drift gill net that is more than 150 feet in length during the seasons described in this section.

(xvi) Unless otherwise specified in this section, fish other than salmon may be taken only by set gill net, drift gill net, beach seine, fishwheel, long line, fyke net, dip net, jigging gear, spear, or lead, subject to the following restrictions, which also apply to subsistence salmon fishing:

(A) During the open weekly fishing periods of the commercial salmon

fishing season, a commercial fisherman may not operate more than one type of gear at a time, for commercial and subsistence purposes, except that in Subdistrict 4-A, upstream from the mouth of Stink Creek, a commercial fisherman may, at any time, assist subsistence fishermen in the operation of subsistence fishing gear;

(B) The aggregate length of set gill net in use by an individual may not exceed 150 fathoms and each drift gill net in use by an individual may not exceed 50 fathoms in length;

(C) In Subdistricts 4, 5 and 6, it is unlawful to set subsistence fishing gear within 200 feet of other operating commercial or subsistence fishing gear;

(D) A gill net may obstruct not more than one-half the width of any fish stream; a stationary fishing device may obstruct not more than one-half width of any salmon stream.

(xvii) Salmon may be taken only by set gill nets in those locations described in below after July 19:

(A) Waters of the Black River including waters within one nautical mile of its terminus;

(B) Waters of Kwikluak Pass downstream of Agmulegut and the waters of Kwemeluk Pass;

(C) Waters of Alakanuk Pass downstream from the mouth of Kuiuupak Slough;

(D) Waters of Kwiguk Pass downstream to the mouth of Kawokhawik Slough;

(E) Waters of Kawanak Pass downstream from Sea Gull Point;

(F) Waters of Kwikpak Pass downstream from Sea Gull Point;

(G) Waters of Apoon Pass downstream from the mouth of the Kotlik River and waters of Okwega Pass downstream from its confluence with Apoon Pass;

(H) Waters within one nautical mile seaward from any grassland bank in District 1.

(xviii) Pike may not be taken with gill nets in the waters of the Tolovana River drainage from October 15 through April 14.

(xix) Each fishwheel must have the first initial, last name, and address of the operator plainly and legibly inscribed on the side of the fishwheel facing midstream of the river.

(xx) For all gill nets and unattended gear that are fished under the ice, the first initial, last name, and address of the operator must be plainly and legibly inscribed on a stake inserted in the ice and attached to the gear.

(xxi) The following locations in the upper Yukon River drainage are closed to subsistence fishing, except that whitefish and suckers may be taken

under the authority of a subsistence fishing permit designating measures for the protection of other fish: the following streams and within 500 feet of their mouths: Birth Creek; Dall River, June 10 through September 10;

(xxii) The following drainages located north of the main Yukon River are closed to subsistence fishing:

(A) Kanuti River, upstream from a point five miles downstream of the state highway crossing;

(B) Fish Creek, upstream from the mouth of Bonanza Creek;

(C) Bonanza Creek;

(D) Jim River, including Prospect Creek and Douglas Creek;

(E) South Fork of the Koyukuk River system upstream from the mouth of Jim River;

(F) Middle Fork of the Koyukuk River system upstream from the mouth of the North Fork;

(G) North Fork of the Chandalar River system upstream from the mouth of Quartz Creek.

(xxiii) The main Tanana River and its adjoining sloughs are closed to subsistence fishing between the mouth of the Salcha River and the mouth of the Gerstle River, except that salmon may be taken in the area upstream of the Richardson Highway bridge to the mouth of Clearwater Creek after November 20.

(xxiv) Waters of the Tanana River drainage are closed to the subsistence taking of pike between the mouth of the Kantishna River and Delta River at Black Rapids on the Richardson Highway and Cathedral Rapids on the Alaska Highway, except that pike may be taken for subsistence purposes in the Tolovana River drainage upstream from its confluence with the Tanana River.

(xxv) The Delta River is closed to subsistence fishing, except that salmon may be taken after November 20.

(xxvi) The following locations are closed to subsistence fishing:

(A) The following rivers and creeks are within 500 feet of their mouths: Delta Clearwater River (Clearwater Creek at 64°06' N. lat., 145°34' W. long),

Richardson Clearwater Creek (Clear Creek at 64°14' N. lat., 146°16' W. long), Goodpaster River, Chena River, Little Chena River, Little Salcha River, Blue Creek, Big Salt River, Shaw Creek, Bear Creek, McDonald Creek, Moose Creek, Hess Creek, and Beaver Creek;

(B) Ray River and Salcha River upstream of a line between Alaska Department of Fish and Game regulatory markers located at the mouth of the rivers;

(C) Deadman, Jan, Boleo, Birch, Lost, Harding, Craig, Fielding, Two-Mile, Quartz, and Little Harding lakes;

(D) Piledriver and Badger (Chena) sloughs.

(xxvii) The following waters are closed to the taking of chum salmon from August 15 through December 31:

(A) Toklat River.

(B) Kantishna River from the mouth of the Toklat River to its confluence with the Tanana River.

(xxviii) Except as provided in this section, fish may be taken for subsistence purposes without a subsistence fishing permit.

(xxix) A subsistence fishing permit is required as follows:

(A) For the Yukon River drainage from the mouth of Hess Creek to the mouth of the Dall River;

(B) For the Yukon River drainage from Alaska Department of Fish and Game regulatory markers placed near the upstream mouth of 22 Mile Slough upstream to the U.S.—Canada border;

(C) For the Tanana River drainage above the mouth of the Wood River;

(D) For whitefish and suckers in the waters listed;

(E) For the taking of pike in waters of the Tolovana River drainage upstream of its confluence with the Tanana River;

(F) For the taking of salmon in Subdistricts 6-A and 6-B.

(xxx) In addition to the subsistence fishing permit conditions, permits issued for fish other than salmon may also designate restrictive measures for the conservation of salmon.

(xxxi) Only one subsistence fishing permit will be issued to each household per year.

(xxxii) In addition to the subsistence fishing permit conditions, permits issued for the taking of salmon in Subdistricts 6-A and 6-B must also contain the following requirements:

(A) Salmon may be taken only by set gill net or fishwheel. No household may operate more than one fishwheel.

(B) Each person subsistence fishing shall keep accurate daily records of his/her catch, the number of fish taken by species, location and date of the catch, and other information that the Alaska Department of Fish and Game may require for management or conservation purposes.

(C) In that portion of Subdistrict 6-B three miles or more upstream of the mouth of Totchaket Slough, each permittee shall report the number of salmon taken to the State once each week, or as specified on the permit. In the remainder of Subdistrict 6-B and in Subdistrict 6-A, each permittee shall report the total number of salmon taken to the Alaska Department of Fish and Game no later than October 31.

(xxxiii) Only those residents domiciled in rural locations in the Yukon Area, as determined by the Federal Subsistence Board, including the community of Stebbins, may take salmon in the Yukon Area.

(xxxiv) Only those residents domiciled in rural locations in the Yukon River Drainage, as determined by the Federal Board including the communities of Stebbins, Scammon Bay, Hooper Bay, and Chevak may take Yukon River Fall chum salmon for subsistence purposes.

(xxxv) Only those residents domiciled in rural locations in the Yukon Area, as determined by the Federal Subsistence Board, may take freshwater fish species, including sheefish, whitefish, lamprey, burbot, sucker, grayling, pie, char, and blackfish, in the Yukon Area.

(xxxvi) Only those residents domiciled within 20 miles of the coast between the terminus of the Black River and the westernmost point of the Naskonat Peninsula may take herring and herring roe in that location.

(xxxvii) In subdistricts 5-A, 5-B, 5-C, and that portion of Subdistrict 5-D downstream from Long Point, no person may possess salmon taken for subsistence purposes during a commercial fishing period, unless the dorsal fin has been immediately removed from the salmon. A person may not sell or purchase salmon from which the dorsal fin has been removed.

(xxxviii) An Alaska Commercial Fisheries Entry Commission salmon permit holder registered for the set net only locations may not use drift gill nets for the subsistence taking of salmon in Districts 1, 2, and 3.

(xxxix) A commercial salmon fisherman who is registered for Districts 1, 2, or 3 may not take salmon for subsistence purposes in any other district located downstream from Old Paradise Village.

(xl) Subsistence salmon harvest limits in Subdistrict 6-C are 750 king salmon and 5,000 chum salmon taken through August 15 and 5,200 chum and coho salmon combined taken after August 15. When either the king or chum salmon harvest limit for periods before August 16 has been taken, the subsistence salmon fishing season in Subdistrict 6-C will close. A later season will open after August 15 to allow the taking of the harvest limit for periods after August 15. If the chum salmon harvest limit has not been obtained through August 15, the remaining harvest will not be added to the chum salmon harvest level for periods after August 15.

(xli) Subsistence salmon fishing seasons and weekly fishing periods for Subdistrict 6-C are as follows:

(A) Salmon may be taken at any time except salmon may not be taken for 24 hours before the opening and after the closing of the commercial salmon fishing seasons and during closed weekly commercial salmon fishing periods;

(B) Weekly subsistence salmon fishing periods that follow closures of the commercial salmon fishing seasons will be established by emergency order;

(C) The annual harvest limit for the holder of a Subdistrict 6-A or 6-B subsistence salmon fishing permit is 60 chinook salmon and 500 chum salmon for the period through August 15 of a year, and 2,000 chum and coho salmon combined for the period after August 15. Upon request, permits for additional salmon may be issued by the department.

(D) Unless otherwise provided, from June 20 through September 30, open subsistence salmon fishing periods are concurrent with open commercial salmon fishing periods. During closures of the commercial salmon fishery, open subsistence salmon fishing periods are as specified in 5 Alaska Administrative Code 05.367.

(E) In the Kantishna River drainage, the open subsistence salmon fishing periods are seven days per week.

(F) In Subdistrict 6-B from the downstream end of Crescent Island to a line three miles upstream from the mouth of the Totchaket Slough, the open subsistence salmon fishing periods are from 6:00 p.m. Friday through 6:00 p.m. Wednesday.

(xlii) Adjustments may have to be made to the subsistence salmon fishing seasons and fishing periods to protect healthy populations.

(xliii) Salmon may be taken only by set gill net or fishwheel. No person may operate a gill net having a mesh size larger than six inches after a date specified by emergency order issued between July 5 through July 25.

(xliv) Subsistence fishermen taking salmon in Subdistrict 6-C shall report their salmon catches at designated Alaska Department of Fish and Game check stations by the end of each weekly fishing period. Immediately after salmon have been taken, catches must be recorded on a harvest form provided by the department.

(xlv) The annual possession limit for the holder of a Subdistrict 6-C subsistence salmon fishing permit is 10 king salmon and 75 chum salmon for periods through August 15 and 75 chum and coho salmon for periods after August 15.

(4) Kuskokwim Area. (i) The Kuskokwim Area consists of all waters of Alaska between the latitude of the westernmost point of the Naskonat

Peninsula and the latitude of the southernmost tip of Cape Newenham, including the waters of Alaska surrounding Nunivak and St. Matthew Islands and those waters draining into the Bering Sea.

(ii) District 1 is that portion of the Kuskokwim River upstream from a line from Apokak Slough (60°8' North latitude, 162°12' West longitude) to the southernmost tip of Eek Island to Popokamiut (60°4' North latitude, 162°28' West longitude) to a line between Alaska Department of Fish and Game regulatory markers located just upstream of the mouth of Bogus Creek.

(iii) District 2 is that portion of the Kuskokwim River from Alaska Department of Fish and Game regulatory markers located at the High Bluffs upstream to the Alaska Department of Fish and Game regulatory markers at the downstream edge of Chuathbaluk.

(iv) District 4 consists of Kuskokwim Bay between Alaska Department of Fish and Game regulatory markers placed at the westernmost edge of the mouth of the Arolik River.

(v) District 5 consists of that portion of Goodnews Bay inside a line between Alaska Department of Fish and Game regulatory markers placed near the bay entrance and a line between Alaska Department of Fish and Game markers placed near the mouth of the Ufigag River and on the opposite shore near the mouth of the Tunulik River.

(vi) Unless otherwise restricted, salmon may be taken in the Kuskokwim area at any time.

(vii) In District 1 and in those waters of the Kuskokwim River between Districts 1 and 2, excluding the Kuskokuak Slough, salmon may be taken at any time except salmon may not be taken for 16 hours before, during and for six hours after, each open commercial salmon fishing period for District 1;

(viii) In District 1, Kuskokuak Slough only, salmon may be taken at any time except:

(A) From June 1 through July 31, salmon may not be taken for 24 hours before and during each open commercial salmon fishing period in the district.

(B) From August 1 through August 31, salmon may not be taken for 15 hours before and during each open commercial salmon fishing period in the district.

(ix) In Districts 4 and 5, salmon may be taken at any time except from June 1 through September 8, salmon may not be taken for 24 hours before, during, and 6 hours after each open commercial salmon fishing period in each district.

(x) Except as otherwise provided, there is no closed season on fish other than salmon.

(xi) In District 2, and anywhere in tributaries that flow into the Kuskokwim River within that district, salmon may be taken at any time, except that from June 1 through September 8 salmon may not be taken for 24 hours before, during, and six hours after each open commercial salmon fishing period in the district.

(xii) Salmon may only be taken by gill net, beach seine, or fishwheel subject to the restrictions set forth in this chapter, except that salmon may also be taken by spear in the Holitna River drainage.

(xiii) The aggregate length of set gill nets or drift gill nets in use by any individual for taking salmon may not exceed 50 fathoms.

(xiv) Fish other than salmon may only be taken by set gill net, drift gill net, beach seine, fishwheel, pot, long line, fyke net, dip net, jigging gear, spear, or lead.

(xv) Each subsistence gill net operated in tributaries of the Kuskokwim River must be attached to the bank, fished substantially perpendicular to the bank and in a substantially straight line.

(xvi) In that portion of the Kuskokwim River drainage from the north end of Eek Island upstream to the mouth of the Kolmakof River, no part of a set gill net located within a tributary to the Kuskokwim River may be set or operated within 150 feet of any part of another set gill net.

(xvii) A gill net may obstruct not more than one-half the width of any fish stream. A stationary fishing device may obstruct not more than one-half the width of any salmon stream.

(xviii) Kegs or buoys attached to subsistence gill nets may be any color except red during any open weekly commercial salmon fishing period.

(xix) The maximum depth of gill nets is as follows:

(A) Gill nets with six-inch or smaller mesh may not be more than 45 meshes in depth;

(B) Gill nets with greater than six-inch mesh may not be more than 35 meshes in depth;

(xx) In addition to the previously stated requirements,

(A) Each fishwheel must have the first initial, last name, and address of the operator plainly and legibly inscribed on the side of the fishwheel facing midstream of the river;

(B) For all gill nets and unattended gear that are fished under the ice, the first initial, last name, and address of the operator must be plainly and legibly inscribed on a stake inserted in the ice and attached to the gear.

(xxi) The Goodnews River is closed to the subsistence taking of fish by nets east of a line between Alaska Department of Fish and Game regulatory markers placed near the mouth of the Ufigag River and Alaska Department of Fish and Game regulatory marker placed near the mouth of the Tunulik River 24 hours before, during, and six hours after each open commercial salmon fishing period.

(xxii) The Kanektok River is closed to the subsistence taking of fish by nets upstream of Alaska Department of Fish and Game regulatory markers placed near the mouth 24 hours before, during the six hours after each open commercial salmon fishing period.

(xxiii) The Arolik River is closed to the subsistence taking of fish by nets upstream of Alaska Department of Fish and Game regulatory markers placed near the mouth 24 hours before, during, and six hours after each open commercial salmon fishing period.

(xxiv) Fish may be taken for subsistence purposes without a subsistence fishing permit.

(xxv) Only those residents domiciled in the Kuskokwim Area, except those persons residing on the United States military installation located on Cape Newenham, Sparrevohn USAFB, and Tatalina USAFB, may take salmon for subsistence purposes in the Kuskokwim Area.

(xxvi) Only those residents domiciled in the communities of Chevak, Newtok, Tununak, Toksook Bay, Nightmute, Chefnak, Kipnuk, Mekoryuk, Kwigillingok, Kongiganak, Eek, and Tuntutuliak may take for subsistence purposes Pacific cod in the Kuskokwim area.

(xxvii) Only those residents domiciled within 20 miles of the coast between the westernmost tip of the Naskonant Peninsula and the terminus of the Ishowik River and on Nunivak Island may take for subsistence purposes herring and herring roe in those locations.

(4) Bristol Bay Area. (i) The Bristol Bay Area consists of all waters of Bristol Bay including drainage enclosed by a line from Cape Newenham to Cape Menshikof.

(ii) Districts and Sections for salmon, bottomfish, and other finfisheries are described below.

(A) Nushagak District: All waters of Nushagak Bay north of a line from 58°33'48" North latitude, 158°47'12" West longitude (Nichols Hills) to 58°39'24" North latitude, 158°19'12" West longitude (Etolin Point);

(1) Igushik Section: All waters of Nushagak Bay bound by a line from 58°33'48" North latitude, 158°47'12" West

longitude to 58°36'18" North latitude, 158°34'36" West longitude to 58°44'54" North latitude, 158°41'24" West longitude to 58°45'48" North latitude, 158°46'36" West longitude;

(2) Snake River Section: All waters bound by a line from 58°52'25" North latitude, 158°43'10" West longitude to 58°44'54" North latitude, 158°41'24" West longitude to 58°45'48" North latitude, 158°46'36" West longitude.

(3) Nushagak Section: All waters of the Nushagak district not described in paragraph (f)(5)(ii)(A) (1) and (2) of this section.

(B) Naknek-Kvichak District: All waters of Kvichak Bay north and east of Loran C line 9990-Y-32430 and divided as follows:

(1) Kvichak Section: All waters of Kvichak Bay north and east of Loran C line 9990-Y-32430 and north and west of a line from 58°38'30" North latitude, 157°22'14" West longitude to the outer end of the Libbyville dock then along the dock to shore.

(2) Naknek Section: All waters of the Naknek-Kvichak District not described in paragraph (f)(5)(ii)(A)(1) of this section.

(C) Egegik District: All waters north of Loran C line 9990-Y-32630, east of Loran C line 9990-Z-45140, and south of Loran C line 9990-Y-32570.

(D) Ugashik District: All waters south of Loran C line 9990-Y-32782 and east of a line connecting an Alaska Department of Fish and Game regulatory marker at Cape Menshikof (Loran C coordinates 9990-Y-32891 and 9990-Z-45229) with a point at the intersection of Loran C lines 9990-Y-32782 and 9990-Z-45150).

(E) Togiak District: All waters north of a line from Cape Newenham to Cape Pierce then to Right Hand Point then to Kulukak Point.

(1) Togiak River Section: Waters of Togiak Bay within a line from a marker on the near shore near Mt. Aeolus to a marker at Rocky Point;

(2) Kulukak Section: Waters of Kulukak Bay within a line bearing in a westerly direction from a marker at Kulukak Point to a marker on the shore at 159°45' West longitude.

(3) Osviak Section: Waters within a line Estu Point and Asigyupak Spit at 58°41' North latitude, 161°18' West longitude;

(4) Matogak Section: Waters of Hagemester Strait within a line between Estus Point and Tongue Point;

(5) Cape Peirce Section: Waters within a line from Cape Newenham to Cape Peirce.

(iii) The Districts and Sections for herring, herring spawn on kelp, and capelin fisheries are:

(A) The Togiak District consists of all waters of Alaska between the longitude of the tip of Cape Constantine and the longitude of the tip of Cape Newenham. Sections are as follows.

(1) Kulukak Section: All waters between the longitude of the tip of Cape Constantine and the longitude of the tip of Right Hand Point.

(2) Nanavachak Section: All waters between the longitude of the tip of Right Hand Point and a line extending south from the westernmost tip of Anchor Point;

(3) Togiak Section: All waters between a line extending south from the westernmost tip of Anchor Point and the longitude of the terminus of the Quigmy River;

(4) Hagemeister Section: All waters between the longitude of the terminus of the Quigmy River and the longitude of the tip of Asigyupak Spit;

(5) Pyrite Point Section: All waters between the longitude of Asigyupak Spit and the longitude of Cape Pierce;

(6) Cape Newenham Section: All waters between the longitude of the tip of Cape Pierce and the longitude of the tip of Cape Newenham.

(B) The Bay District consists of all waters of the Bristol Bay Area east of the longitude of the southernmost tip of Cape Constantine.

(C) The General District consists of all waters of the Bristol Bay Area west of the longitude of the southernmost tip of Cape Newenham.

(iv) Unless restricted in this section or unless restricted under the terms of a subsistence fishing permit, fish may be taken at any time in the Bristol Bay Area.

(v) Within the waters of a district open during the commercial salmon fishing season, salmon may be taken only during open commercial salmon fishing periods. In the open waters of the Nushagak District, provision shall be made for subsistence salmon fishing by emergency order whenever there are commercial salmon fishing closures of five or more days. During these emergency order openings,

(A) Set gill nets may not be more than 10 fathoms in length;

(B) No set gill net may be set or operated within 450 feet of another set gill net, and

(C) Catches during the emergency order openings must be reported to the Dillingham Alaska Department of Fish and Game office within 24 hours after the closure.

(vi) From October 1 through December 31, sockeye salmon may be taken along a 100 yard length of the west shore of Naknek Lake near the outlet to the Naknek River as marked by Alaska

Department of Fish and Game regulatory markers.

(vii) In the Nushagak District from an Alaska Department of Fish and Game regulatory marker located two statute miles south of Bradford Point to an Alaska Department of Fish and Game regulatory marker located at Red Bluff on the west shore of the Wood River, from 9:00 a.m. June 16 through 9:00 a.m. July 17, salmon may be taken only from 9:00 a.m. Monday to 9:00 a.m. Tuesday, 9:00 a.m. Wednesday to 9:00 a.m. Thursday, and 9:00 a.m. Friday to 9:00 a.m. Saturday.

(viii) In the Naknek, Egegik, and Ugashik Rivers from 9:00 a.m. June 23 through 9:00 a.m. July 17, salmon may be taken only from 9:00 a.m. Tuesday to 9:00 a.m. Wednesday and 9:00 a.m. Saturday to 9:00 a.m. Sunday.

(ix) Within any district, salmon, herring, and capelin may only be taken by drift and set gill nets.

(x) Outside the boundaries of any district, salmon may only be taken by set gill net, except that salmon may also be taken by spear in the Togiak River excluding its tributaries.

(xi) The maximum lengths for set gill nets used to take salmon are as follows:

(A) In the Naknek, Egegik and Ugashik Rivers, in the Nushagak District, and in Naknek Lake, set gill nets may not exceed 10 fathoms in length;

(B) In the remaining waters of the area, set gill nets may not exceed 25 fathoms in length.

(xii) No part of a set gill net may be operated within 300 feet of any part of another set gill net, except in the Nushagak District from the Alaska Department of Fish and Game regulatory marker two statute miles below Bradford Point to a marker at Red Bluff on the west shore of Wood River, no part of a set gill net may be operated within 100 feet of any part of another set gill net.

(xiii) No set gill net may obstruct more than one-half the width of a stream.

(xiv) Each set gill net must be staked and buoyed.

(xv) No person may operate or assist in operating subsistence salmon net gear while simultaneously operating or assisting in operating commercial salmon net gear.

(xvi) Fish, other than salmon, herring and capelin may be taken by gear previously listed unless restricted under the terms of a subsistence fishing permit.

(xvii) Herring spawn on kelp may be taken only by hand picking and hand operated rakes.

(xviii) During closed commercial herring fishing periods, gill nets used for

the subsistence taking of herring or capelin may not exceed 25 fathoms in length.

(xix) Except for the western shore of the Newhalen River, waters used by salmon are closed to the subsistence taking of fish within 300 feet of a stream mouth.

(xx) Gill nets are prohibited in that portion of the Naknek River upstream from Sovonaski;

(xxi) Subsistence fishing with nets is prohibited in the following waters and within one-fourth mile of the terminus of those waters during the period from September 1 through June 14:

Lower Talarik Creek
Middle Talarik Creek
Upper Talarik Creek
Pete Andrew Creek
Zacker Creek
Newhalen River
Roadhouse Creek
Alexi Creek
Tazimina River
Young's Creek
Chekok Creek
Tomokok Creek
Nick G. Creek
Copper River
Kakhonak River
Gibraltar River
Dennis Creek
Belinda Creek

(xxii) Metervik Bay is closed to herring fishing north of a line from an Alaska Department of Fish and Game regulatory marker at 58°49'6" North latitude, 159°47'15" West longitude to an Alaska Department of Fish and Game regulatory marker at 58°49'58" North latitude, 159°45'45" West longitude. This closure does not apply to the taking of herring spawn on kelp.

(xxiii) Ungalikthluk Bay is closed to the taking of herring north of a line from an Alaska Department of Fish and Game regulatory marker at Rocky Point (58°53'15" North latitude, 160°14'15" West longitude) to an Alaska Department of Fish and Game regulatory marker at 58°51'54" North latitude, 160°9'45" West longitude. This closure does not apply to the taking of herring spawn on kelp.

(xxiv) Salmon, trout and char may only be taken under authority of a subsistence fishing permit.

(xxv) Only one subsistence fishing permit may be issued to each household per year.

(xxvi) Subsistence salmon fishing permits for the Naknek River drainage will be issued only through the Alaska Department of Fish and Game King Salmon office.

(xxvii) Only those residents domiciled in the Nushagak District and freshwater drainage flowing into the district may

take salmon in the district and those drainage.

(xxviii) Only those residents domiciled in the Togiak District, freshwater drainage flowing into the district, and the community of Manokotak may take salmon and freshwater fish species in the district and those drainage.

(xxix) Only those residents domiciled in the Naknek and Kvichak River drainage may take salmon in the Naknek River drainage.

(xxx) Only those residents domiciled in the Iliamna-Lake Clark drainage may take salmon in the Iliamna-Lake Clark drainage.

(xxxi) Only those residents domiciled in the communities of Togiak, Twin Hills, Manokotak, Aleknagik, Dillingham, Clarks Point, and Ekuk may take herring and herring roe on kelp in the waters of the Togiak District which consist of all waters of Alaska between the longitude of the tip of Cape Constantine and the longitude of the tip of Cape Newenham.

(xxxii) After August 20, no person may possess coho salmon for subsistence purposes in the Togiak River Section and the Togiak River drainage unless the head has been immediately removed from the salmon. It is unlawful to purchase or sell coho salmon from which the head has been removed.

(xxxiii) The total annual possession limit for a subsistence salmon fishing permit issued under this section is 200 sockeye salmon.

(6) Aleutian Islands Area. (i) The Aleutian Islands Area includes all waters of Alaska west of the longitude of the tip of Cape Sarichef, east of 172° E. long., and south of 54°36' N. lat.

(A) Akutan District: All waters between Scotch Cap and Cape Sarichef Light and extending west to and including Akutan Pass. South of Scotch Cap, the eastern boundary of the district is a line extending from Scotch Cap through the easternmost tip of Ugamak Island.

(B) Unalaska District: All waters west of Akutan Pass to and including Umnak Pass

(1) Beaver Inlet Section: All waters between Cape Sedanka and Cape Kalekta and including Unalga Island;

(2) Unalaska Bay Section: All waters between Cape Kaalekta and Cape Kovrizhka;

(3) Makushin Bay Section: All waters between Cape Kovrizhka and Spray Cape;

(4) Kashega Bay Section: All waters between Spray Cape and Konets Head;

(5) Southern Section: All waters between Konets Head and Cape Sedanka.

(C) Umnak District: All waters west of Umnak Pass to and including Atka Pass.

(D) Adak District: All waters west of Atka Pass to the terminus of the Aleutian Islands.

(ii) Salmon may be taken by seine and gill net, or with gear specified on a subsistence fishing permit.

(iii) Fish other than salmon may be taken by gear previously listed, unless restricted under the terms of a subsistence fishing permit.

(iv) The waters of Unalaska Lake (at Unalaska Village), its drainage and the outlet stream, and within 500 yards of its terminus are closed to subsistence fishing.

(v) The Adak District is closed to the taking of salmon.

(vi) Salmon, trout and char may be taken only under the terms of a subsistence fishing permit, except that a permit is not required in the Akutan, Umnak and Adak Districts. Not more than 250 salmon may be taken for subsistence purposes unless otherwise specified on the subsistence fishing permit. A record of subsistence caught fish must be kept on the reverse side of the permit. The record must be completed immediately upon taking subsistence caught fish and must be returned to the local representative of the Alaska Department of Fish and Game no later than October 31.

(7) Alaska Peninsula Area. (i) The Alaska Peninsula Area includes all Pacific Ocean waters of Alaska between a line extending southeast (135°) from the tip of Kupreanof Point and the longitude of the Tip of Cape Sarichef, and all Bering Sea waters of Alaska east of the longitude of the tip of Cape Sarichef and south of the latitude of the tip of Cape Menshikof.

(ii) Salmon may be taken at any time except within 24 hours before and within 12 hours following each open weekly commercial salmon fishing period within a 50 mile radius of the area open to commercial salmon fishing, or as may be specified on a subsistence fishing permit.

(iii) Fish other than salmon may be taken at any time unless restricted under the terms of a subsistence fishing permit.

(iv) Salmon may be taken by seine and gill net, or with gear specified on a subsistence fishing permit.

(v) Fish other than salmon may be taken by gear previously listed, unless restricted under the terms of a subsistence fishing permit.

(vi) No set gill net may exceed 100 fathoms in length.

(vii) The following waters are closed to subsistence fishing for salmon:

(A) Russell Creek and Nurse Lagoon and within 500 yards outside the mouth of Nurse Lagoon;

(B) Trout Creek and within 500 yards outside its mouth;

(c) Inshore of a line from the Pacific Pearl dock to Black Point, including the inlet and Humboldt Creek.

(viii) Salmon, trout and char may be taken only under the authority of a subsistence fishing permit. A record of subsistence caught fish must be kept on the reverse side of the permit. The record must be completed immediately upon taking subsistence caught fish and must be returned to the local representative of the Alaska Department of Fish and Game no later than October 31.

(8) Chignik Area. (i) The Chignik Area includes all waters of Alaska on the south side of the Alaska Peninsula enclosed by 156°20'13" W. long., (the longitude of the southern entrance to Imuya Bay near Kilokak Rocks) and a line extending southeast (135°) from the tip of Kupreanof Point.

(ii) Salmon may be taken by seines and gill nets, or with gear specified on a subsistence fishing permit, except that in Chignik Lake salmon may not be taken with purse seines.

(iii) Fish other than salmon may be taken by gear previously listed, unless restricted under the terms of a subsistence fishing permit.

(iv) Salmon may not be taken in the Chignik River, upstream from the Alaska Department of Fish and Game weir site or counting tower, in Black Lake, or any tributary to Black and Chignik Lakes.

(v) Salmon, trout and char may only be taken under the authority of a subsistence fishing permit. A record of subsistence caught fish must be kept on the reverse side of the permit. The record must be completed immediately upon taking subsistence caught fish and must be returned to the local representative of the Alaska Department of Fish and Game no later than October 31.

(vi) From June 10 through September 30, commercial fishing license holders may not subsistence fish for salmon.

(9) Kodiak Area. (i) The Kodiak Area includes all waters of Alaska south of a line extending east from Cape Douglas (58°52' N. lat.), west of 150° W. long., north of 55°30' N. lat.; and east of the longitude of the southern entrance of Imuya Bay near Kilokak Rocks (156°20'13" W. long.).

(ii) Salmon may be taken for subsistence purposes from 6:00 a.m. until 9:00 p.m. from January 1 through

December 31, with the following exceptions:

(A) From June 1 through September 15, salmon seine vessels may not be used to take subsistence salmon for 24 hours before, during, and for 24 hours after any open commercial salmon fishing period;

(B) From June 1 through September 15, purse seine vessels may be used to take salmon only with gill nets and no other type of salmon gear may be on board the vessel.

(iii) Fish other than salmon may be taken at any time unless restricted by the terms of a subsistence fishing permit.

(iv) Unless restricted by this section or under the terms of a subsistence fishing permit, fish may be taken by gear previously listed.

(v) Salmon may be taken only by gill net and seine.

(vi) Subsistence fishermen must be physically present at the net at all times the net is being fished.

(vii) The following locations are closed to the subsistence taking of salmon:

(A) All waters of Mill Bay and all those waters bounded by a line from Spruce Cape to the northernmost point of Woody Island, then to the northernmost point of Holiday Island, then to a point on Near Island opposite the Kodiak small boat harbor entrance and then to the small boat harbor entrance;

(B) All freshwater systems of Little Afognak River and Portage Creek drainage in Discoverer Bay;

(C) All waters closed to commercial salmon fishing in the Barbara Cove, Chiniak Bay, Salfery Cove, Pasagshak Bay, Monashka Bay and Anton Larsen Bay, and all waters closed to commercial salmon fishing within 100 yards of the terminus of Selief Bay Creek and north and west of a line from the tip of Last Point to the tip of River Mouth Point in Afognak Bay;

(D) All waters 300 yards seaward of the terminus of Monks Creek;

(E) From August 15 through September 30, all waters 500 yards seaward of the terminus of Little Kitoi Creek;

(F) All freshwater systems of Afognak Island;

(G) All waters of Ouzinkie Harbor north of a line from 57°55'10" N. lat., 152°36' W. long. to 57°55'03" N. lat., 152°29'20" W. long.

(viii) A subsistence fishing permit is required for taking salmon, trout and char for subsistence purposes. A subsistence fishing permit is required for taking herring and bottomfish for subsistence purposes during the commercial herring sac roe season from

May 1 through June 30. All subsistence fisherman shall keep a record of the number of subsistence fish taken each year. The number of subsistence fish taken shall be recorded on the reverse side of the permit. The record must be completed immediately upon landing subsistence caught fish and must be returned to the local representative of the Alaska Department of Fish and Game by February 1 of the year following the year the permit was issued.

(ix) only those residents domiciled in the Kodiak Island Borough, except those residing on the Kodiak Coast Guard base, may take salmon in the Kodiak Area. This restriction does not apply to the Mainland District, all waters along the southside of the Alaska Peninsula bounded by the latitude of Cape Douglas (58° 52' North latitude) mid-stream, Shelikof Strait, and west of the longitude of the southern entrance of Kmuya Bay near Kilokak Rocks (57°11'22" North latitude, 156°20'30" West longitude.)

(10) Cook Inlet Area. (i) The Cook Inlet Area includes all waters of Alaska enclosed by a line extending east from Cape Douglas (58°52' N. lat.) and a line extending south from Cape Fairfield (148°40' W. long.).

(A) Northern District: North of a line extending from Boulder Point at 60°46'23" N. lat., to Shell Platform C, then to a point on the west shore at 60°46'23" N. lat.

(1) Eastern Subdistrict: All waters south of the latitude of Point Possession, north of the latitude of Boulder Point, and east of a line from Shell Platform C to a point at 61°02'40" N. lat., 156°40' W. long.;

(2) In addition to paragraph (f)(10)(i)(A) (1) of this section, the Tyonek subdistrict includes those waters of the Northern District within mean lower tide from a point one mile south of the southern edge of the Chitna River south of the easternmost tip of Granite Point.

(3) General Subdistrict: All waters of the Northern District not specified above.

(B) Central District: All waters between a line extending from Boulder Point at 60°46'23" N. lat., to Shell Platform C, to a point on the west shore at 60°46'23" N. lat., and the latitude of Anchor Point Light (59°46'12" N. lat.)

(1) Kustatan Subdistrict: All waters within a line from the Drift River terminal to the South Kalgin Island Light at 60°20'48" N. lat., 152°04'30" W. long., northerly along the west side of Kalgin Island to Northwest Point at 60°31'15" N. lat., 155°55'45" W. long., bearing 43° to Shell Platform C, to a point on the west

shore at 60°46'23" N. lat., excluding the waters of the Kalgin Island Subdistrict;

(2) Upper Subdistrict: All waters within a line from Boulder Point to shell Platform C, then bearing 223° to Northwest Point at 60°31'15" N. lat., 151°55'45" W. long. then following the eastern shore of Kalgin Island to the South Kalgin Island Light at 60°20'48" N. lat., 152°09'42" W. long., then bearing 142° to the Ninilchik small boat harbor, excluding the waters of the Kalgin Island Subdistrict;

(3) Kalgin Island Subdistrict: All waters within a line encompassing Kalgin Island within one mile of mean lower low water as delineated by the most recent U.S. Coast and Geodetic Survey chart number 8553;

(4) Lower Subdistrict: Waters between a line extending from Ninilchik small boat harbor, then bearing 136° to the South Kalgin Light at 60°20'48" N. lat., 152°09'42" W. long., then bearing 236° to a point one nautical mile from the bluff on the northwestern shore of Chisik Island at 60°10'30" N. lat., 152°35' W. long., then in a southerly direction one nautical mile seaward of the mean high water line to a point at the southern end of the silver salmon set-net area at 59°58'5" N. lat., then bearing 270° to the shore, and the latitude of the Anchor Point Light, excluding the waters of the Chitna Bay and the Kalgin Islands Subdistricts;

(5) Western Subdistricts: Water within a line from the Drift River terminal to the South Kalgin Light at 60°20'48" N. lat., 152°09'42" W. long., then bearing 236° to a point one nautical mile from the bluff on the northeast shore of Chisik Island at 60°10'30" N. lat., 152°35' W. long., then in a southerly direction one nautical mile seaward of the mean high water line to a point at the southern end of the silver salmon set-net area at 59°58'05" N. lat., then bearing 270° to the shore, excluding the waters of the Kalgin Island Subdistrict;

(6) Chinitna Bay Subdistrict: All waters in Chinitna Bay west of a line from Spring Point to Sea Otter Point.

(C) Southern District: All waters enclosed by a line from the westernmost tip of Anchor Point west to 59°46'15" N. lat., 162°20' W. long., then south to 59°03'25" N. lat., 152°20' W. long., then in a northeasterly direction to the tip of Cape Elizabeth, then from the tip of Cape Elizabeth to the tip of Point Adam;

(1) Port Graham Subdistrict: All waters east of the longitude of Point Bede and south of the latitude Point Pogibshi;

(2) Seldovia Bay Subdistrict: All waters south of a line from Point Naskowhak, to Seldovia Point;

(3) Barbara Creek Subdistrict: All waters between the longitudes of Seldovia Point and Nubble Point and south of 59°30' N. lat.;

(4) Tutka Bay Subdistrict: All waters east of the longitude of Nubble Point and south of the latitude of Anisom Point on the eastern shore of Eldred Passage at 59°32'06" N. lat., 141°27'55" W. long., including Kasitnsa Bay;

(5) Humpy Creek Subdistrict: All waters east of a line from an Alaska Department of Fish and Game marker on Glacier Spit at 59°38' N. lat., 151°12'31" W. long., to the Northshore Subdistrict line at 59°38'15" N. lat., 151°18'45" W. long., and southeast of a line from that point on the Northshore Subdistrict line at 59°38'15" N. lat., 151°18'45" W. long., to a point north of Chugachik Island at 59°45' N. lat., 151°02'36" S. long., to a point on the mainland at 59°44'30" N. lat., 151°02'06" W. long.

(6) Northshore Subdistrict: All waters north of a line from Coal Point to a point north of Chugachik Island at 59°45' N. lat., 151°02'36" W. long., then northwesterly to a marker one-half statute mile southwest of the terminus of Swift Creek;

(7) China Poot Subdistrict: All waters south of a line from Peterson Point at 59°35'48" N. lat., 151°16'24" W. long., to Coal Point on the tip of the Homer Spit at 59°36'06" N. lat., 151°24'30" W. long. to 59°32'06" N. lat., 151°33'05" W. long. to Anisom Point.

(8) Halibut Cove Subdistrict: All waters within a line from a marker on Glacier Spit at 59°38' N. lat., 151°12'30" W. long., to the intersection of the Northshore Subdistrict line at 59°38'15" N. lat., 151°18'45" W. long., to Coal Point to Peterson Point.

(D) Kamishak Bay District: All waters enclosed by a line from 59°46'15" N. lat., 153°30' W. long., then east to 59°46'15" N. lat., 152°20' W. long., then south to 59°03'25" N. lat., 152°20' W. long., then southwesterly to Cape Douglas (58°52' N. lat.).

(1) Iniskin Bay Subdistrict: All waters north of a line from a point on the east shore of Iniskin Bay near Scott Island at 59°38'35" N. lat., 153°25'30" W. long., to a point north of South Head at 59°37'20" N. lat., 153°33'30" W. long.;

(2) Cottonwood Bay Subdistrict: All waters west of a line from South Head north to a point at 59°37'20" N. lat., 153°33'30" W. long.;

(3) Ursus Cove Subdistrict: All waters west of the longitude of Ursus Head and north 59°28'05" N. lat.;

(4) Rocky Cove Subdistrict: All waters between 59°28'05" N. lat., and 59°25' N. lat., and west of 153°40' W. long.;

(5) Bruin Bay Subdistrict: All waters between 59°25' N. lat., and 59°20' N. lat., and west of 153°40' W. long.;

(6) Kamishak River Subdistrict: All waters east of a line from McNeil Head at 59°07'24" N. lat., 154°10'24" W. long. to the mushroom islet at 59°07'45" N. lat., 154°09'30" W. long. to the northern tip of Nordyke Island at 59°11' N. lat., 154°05' W. long., south of the latitude of the northern tip of Nordyke Island, and west of 153°50' W. long.;

(7) McNeil River Subdistrict: All waters southwest of a line from McNeil Head to a point of land at 59°09'30" N. lat., 154°12'45" W. long.;

(8) Chenik Subdistrict: All waters between 59°20' N. lat., and the latitude of the northern tip of Nordyke Island at 59°11' N. lat., 154°05' W. long., and west of 153°40' W. long.;

(9) Paint River Subdistrict: All waters south of the latitude of the northern tip of Nordyke Island at 59°11' N. lat., 154°05' W. long., west of a line from the northern tip of Nordyke Island to the mushroom islet at 59°07'45" N. lat., 154°09'30" W. long. to McNeil Head and east of a line from McNeil Head to a point of land at 59°09'30" N. lat., 154°12'45" W. long.;

(10) Douglas River Subdistrict: All waters west of the longitude of Cape Douglas (153°10'30" W. long.), south of the latitude of the northern tip of Nordyke Island at 59°11' N. lat., 154°05' W. long., and east of 153°50' W. long.

(E) Barren Island District: All waters enclosed by a line from Cape Douglas (58°52' N. lat.) to the tip of Cape Elizabeth, then south to 58°52' N. lat., 151°53' W. long., then west to Cape Douglas.

(F) Outer District: All waters enclosed by a line from the tip of Point Adam to the tip of Cape Elizabeth, then south to 58°52' N. lat., 151°53' W. long., then east to the longitude of Alijo Point (149°44'33" W. long.), then north to the tip of Alijo Point.

(1) Koyuktolik Subdistrict: All waters east of the longitude of Point Adam and north of 59°13'55" N. lat.;

(2) Port Chatham Subdistrict: All waters north of 59°10' N. lat., and east of 151°50' W. long.;

(3) Windy Bay Subdistrict: All waters west of a line from 59°12'33" N. lat., 151°27'30" W. long., to 59°14'08" N. lat., 151°26'24" W. long.;

(4) Rocky Bay Subdistrict: All waters north of a line from 59°14'08" N. lat., 151°26'24" W. long., to 59°12'24" N. lat., 151°19'15" W. long.; Scurvey Creek Section: all waters northwest of a line from 59°34'30" N. lat., 151°26'24" W. long. to a point on the southwest corner of Picnic Harbor at 59°15'05" N. lat., 151°25' W. long.;

(5) Port Dick Subdistrict: All waters of Port Dick north of 59°13' 12" N. lat.;

(i) Port Dick North Section: All waters of the northern shore of West Arm bounded by a line from the marker at 59°18'40" N. lat., 151°16'50" W. long., south to a point 300 yards offshore then southeasterly to 59°16'50" N. lat., 151°05'55" W. long. then north to the waterfall at 59°16'40" N. lat.

(ii) Port Dick South Section: Waters of the subdistrict not included in the Port Dick North Section.

(6) Nuka Island Subdistrict: All waters of Nuka Passage north of a line from Front Point to Nuka Point and south of the latitude of Hardover Point;

(7) East Nuka Subdistrict: All waters of the East Arm of Huka Bay north of the latitude of Harrington Point.

(G) Eastern District: All waters east of the longitude of Alijo Point (149°44'33" W. long.), west of the longitude of Cape Fairfield (148°50' W. long.), and north of 58°52' N. lat.

(1) Aialik Bay Subdistrict: All waters north of a line from Alijo Point to Aialik Cape;

(2) Resurrection Bay Subdistrict: All waters north of the latitude of Caines Head (59°59' N. lat.).

(ii) Unless restricted in this section or unless restricted under the terms of a subsistence fishing permit, fish may be taken at any time in the Cook Inlet area.

(iii) Salmon may be taken for subsistence purposes only as follows:

(A) In the Tyonek subdistrict;

(1) From May 15 through June 15 from 4:00 a.m. to 8:00 p.m. on Tuesdays, Thursdays and Fridays;

(2) From June 16 through October 15 from 6:00 a.m. to 6:00 p.m. on Saturdays;

(3) The season described in paragraph (f)(10)(iii)(A) (1) of this section shall close by emergency order when 4,200 king salmon have been taken;

(4) The season described in paragraph (f)(10)(iii)(A) (2) of this section shall not open until July 1, if 4,200 king salmon are taken before June 16.

(B) In the Port Graham and Koyuktolik Subdistricts from April 1 through September 30 from 6:00 a.m. Monday until 6:00 a.m. Wednesday and from 6:00 a.m. Thursday until 6:00 a.m. Saturday;

(iv) Dolly varden may be taken in fresh water for subsistence purposes in the Port Graham Subdistrict only from April 1 through May 31.

(v) Only those residents domiciled in Port Graham and English Bay may take salmon in the Port Graham and Koyuktolik Subdistricts and dolly varden in fresh water in the Port Graham Subdistrict.

(vi) Only those residents domiciled in the village of Tyonek may take salmon in the Tyonek Subdistrict.

(vii) Unless otherwise restricted or under the terms of a subsistence fishing permit, fish may be taken by listed gear.

(viii) Salmon may be taken only as follows:

(A) In the Tyonek Subdistrict by set gill nets not exceeding 10 fathoms in length, six inches in mesh size and 45 meshes in depth;

(B) In the Port Graham and Koyuktolik Subdistricts by set gill nets not exceeding 35 fathoms in length, six inches in mesh size and 45 meshes in depth;

(C) No part of a set gill net may be set or operated within 600 feet of any part of another set gill net.

(ix) No person may operate or assist in the operation of subsistence salmon net gear on the same day that person operates or assists in the operation of commercial salmon gear.

(x) Bottomfish may be taken by legal gear for commercial bottomfish in the area.

(xi) Smelt and herring may be taken only with gill nets and dip nets. Gill nets used to take smelt may not exceed 50 feet in length and two inches in mesh size.

(xii) Gill nets may not be used in fresh water, except for the taking of whitefish in the Tyonek River drainage.

(xiii) Dolly varden may be taken in fresh water only by beach seines not exceeding 10 fathoms in length.

(xiv) All salt water is closed to the taking of finfish except

(A) The Tyonek and Port Graham Subdistricts;

(B) Salmon may be taken in the Koyuktolik Subdistrict.

(xv) Salmon may not be taken in any area closed to commercial salmon fishing unless otherwise permitted.

(xvi) Trout, grayling, char, and burbot may not be taken in fresh water, except that dolly varden may be taken in fresh water in the Port Graham Subdistrict.

(xvii) Salmon may be taken only under the authority of a subsistence fishing permit issued by the Alaska Department of Fish and Game; only one permit may be issued to a household each year. A subsistence fishing permit holder shall record daily salmon catches on forms provided by the department.

(xviii) Whitefish may be taken only in the Tyonek River drainage and only under the authority of a permit issued by the department.

(xix) Dolly varden may be taken in fresh water only under the authority of a subsistence fishing permit issued by the department; only one permit may be issued to a household each year. A

subsistence fishing permit holder shall record daily dolly varden catches on forms provided by the department.

(xx) No person may possess salmon taken under the authority of a subsistence fishing permit unless both lobes of the caudal fin (tail) have been immediately removed from the salmon.

(xxi) It is unlawful to purchase or sell salmon from which both lobes of the caudal fin (tail) have been removed.

(xxii) The total annual possession limit for each subsistence salmon permit is as follows:

(A) There is no total annual possession limit for holders of Port Graham and Koyuktolik Subdistrict subsistence salmon fishing permits;

(B) 25 salmon for the head of household and 10 salmon for each dependent of the permit holder.

(C) In addition to the limits in (B) of this subsection, the holder of a Tyonek subdistrict subsistence salmon fishing permit may take 70 king salmon; no more than 4,200 king salmon may be taken in the Tyonek subdistrict during the period May 15 through June 30.

(11) Prince William Sound Area.

(i) The Prince William Sound Area includes all waters of Alaska between the longitude of Cape Fairfield and the longitude of Cape Suckling.

(A) The Upper Copper River District consists of all waters of the mainstem Copper River from the mouth of the Slana River downstream to an east-west line crossing the Copper River approximately 200 yards upstream of Haley Creek as designated by Alaska Department of Fish and Game regulatory markers.

(2) The Chitina Subdistrict consists of all waters of the Upper Copper River District downstream of the downstream edge of the Chitina-McCarthy Road Bridge and the east side of the Copper River from the upstream edge of the bridge to an Alaska Department of Fish and Game regulatory marker located one quarter of a mile upstream of the bridge.

(3) The Glennallen Subdistrict consists of all remaining waters of the Upper Copper River District.

(ii) Unless restricted in this section or unless restricted under the terms of a subsistence fishing permit, fish may be taken at any time in the Prince William Sound Area.

(iii) Salmon may be taken in the Upper Copper River District only as follows:

(A) In the Glennallen Subdistrict, from June 1 through September 30;

(B) In the Chitina Subdistrict, only when that subdistrict is open to the personal use salmon fishing;

(C) When the Copper River subsistence fishery is closed or restricted because of an inadequate escapement of sockeye or chinook salmon, the fishery may be reopened September 1 for the taking of coho salmon, which constitute the majority of the salmon at that time.

(iv) Herring spawn on kelp may be taken only during the open commercial herring spawn on kelp season.

(v) Fish may be taken by gear previously listed unless restricted in this section or under the term of a subsistence fishing permit.

(vi) Salmon may be taken only by the following types of gear:

(A) In the Glennallen Subdistrict by fishwheels or dip nets;

(B) In the Chitina Subdistrict by dip nets when the personal use salmon fishery is open in that subdistrict;

(C) In salt water by gill nets and seines.

(vii) Fishwheels used for subsistence fishing may not be rented, leased, or otherwise used for personal gain. Subsistence fishwheels must be removed from the water at the end of the permit period. Each permittee may operate only one fishwheel at any one time. No person may set or operate a fishwheel within 75 feet of another fishwheel. No fishwheel may have more than two baskets.

(viii) The permit holder (permittee) must personally operate the fishwheel or dip net. A subsistence fishwheel or dip net permit may not be loaned or transferred except as permitted by Alaska regulations.

(ix) Herring spawn on kelp may be taken only by a hand-held unpowered blade cutting device. Kelp plant blades must be cut at least four inches above the stipe (stem). The provisions of this subsection do not apply to "Fucus" species.

(x) A wood or metal plate at least 12 inches high by 12 inches wide, bearing the permit holder's name and address in letters and numerals at least one inch high, must be attached to each fishwheel so that the name and address are plainly visible.

(xi) All tributaries of the Copper River and waters of the Copper River not in the Upper Copper River District are closed to the taking of salmon.

(xii) Crosswind Lake is closed to all subsistence fishing.

(xiii) Salmon may not be taken in any area closed to commercial salmon fishing unless otherwise permitted.

(xiv) Salmon may not be taken in the Chitina Subdistrict, or in any portion of the subdistrict, when those waters are closed to personal use salmon fishing.

(xii) Gill nets may not be used in fresh water, except for the taking of whitefish in the Tyonek River drainage.

(xiii) Dolly varden may be taken in fresh water only by beach seines not exceeding 10 fathoms in length.

(xiv) All salt water is closed to the taking of finfish except

(A) The Tyonek and Port Graham Subdistricts;

(B) Salmon may be taken in the Koyuktolik Subdistrict.

(xv) Salmon may not be taken in any area closed to commercial salmon fishing unless otherwise permitted.

(xvi) Trout, grayling, char, and burbot may not be taken in fresh water, except that dolly varden may be taken in fresh water in the Port Graham Subdistrict.

(xvii) Salmon may be taken only under the authority of a subsistence fishing permit issued by the Alaska Department of Fish and Game; only one permit may be issued to a household each year. A subsistence fishing permit holder shall record daily salmon catches on forms provided by the department.

(xviii) Whitefish may be taken only in the Tyonek River drainage and only under the authority of a permit issued by the department.

(xix) Dolly varden may be taken in fresh water only under the authority of a subsistence fishing permit issued by the department; only one permit may be issued to a household each year. A subsistence fishing permit holder shall record daily dolly varden catches on forms provided by the department.

(xx) No person may possess salmon taken under the authority of a subsistence fishing permit unless both lobes of the caudal fin (tail) have been immediately removed from the salmon.

(xxi) It is unlawful to purchase or sell salmon from which both lobes of the caudal fin (tail) have been removed.

(xxii) The total annual possession limit for each subsistence salmon permit is as follows:

(A) There is no total annual possession limit for holders of Port Graham and Koyuktolik Subdistrict subsistence salmon fishing permits;

(B) 25 salmon for the head of household and 10 salmon for each dependent of the permit holder.

(C) In addition to the limits in (B) of this subsection, the holder of a Tyonek subdistrict subsistence salmon fishing permit may take 70 king salmon; no more than 4,200 king salmon may be taken in the Tyonek subdistrict during the period May 15 through June 30.

(11) Prince William Sound Area.

(i) The Prince William Sound Area includes all waters of Alaska between the longitude of Cape Fairfield and the longitude of Cape Suckling.

(A) The Upper Copper River District consists of all waters of the mainstem Copper River from the mouth of the Slana River downstream to an east-west line crossing the Copper River approximately 200 yards upstream of Haley Creek as designated by Alaska Department of Fish and Game regulatory markers.

(1) The Chitina Subdistrict consists of all waters of the Upper Copper River District downstream of the downstream edge of the Chitina-McCarthy Road Bridge and the east side of the Copper River from the upstream edge of the bridge to an Alaska Department of Fish and Game regulatory marker located one quarter of a mile upstream of the bridge.

(2) The Glennallen Subdistrict consists of all remaining waters of the Upper Copper River District.

(ii) Unless restricted in this section or unless restricted under the terms of a subsistence fishing permit, fish may be taken at any time in the Prince William Sound Area.

(iii) Salmon may be taken in the Upper Copper River District only as follows:

(A) In the Glennallen Subdistrict, from June 1 through September 30;

(B) In the Chitina Subdistrict, only when that subdistrict is open to the personal use salmon fishing;

(C) When the Copper River subsistence fishery is closed or restricted because of an inadequate escapement of sockeye or chinook salmon, the fishery may be reopened September 1 for the taking of coho salmon, which constitute the majority of the salmon at that time.

(iv) Herring spawn on kelp may be taken only during the open commercial herring spawn or kelp season.

(v) Fish may be taken by gear previously listed unless restricted in this section or under the terms of a subsistence fishing permit.

(vi) Salmon may be taken only by the following types of gear:

(A) In the Glennallen Subdistrict by fishwheels or dip nets;

(B) In the Chitina Subdistrict by dip nets when the personal use salmon fishery is open in that subdistrict;

(C) In salt water by gill nets and seines.

(vii) Fishwheels used for subsistence fishing may not be rented, leased, or otherwise used for personal gain. Subsistence fishwheels must be removed from the water at the end of the permit period. Each permittee may operate only one fishwheel at any one time. No person may set or operate a fishwheel within 75 feet of another

fishwheel. No fishwheel may have more than two baskets.

(viii) The permit holder (permittee) must personally operate the fishwheel or dip net. A subsistence fishwheel or dip net permit may not be loaned or transferred except as permitted by Alaska regulations.

(ix) Herring spawn on kelp may be taken only by a hand-held unpowered blade cutting device. Kelp plant blades must be cut at least four inches above the stipe (stem). The provisions of this subsection do not apply to "Fucus" species.

(x) A wood or metal plate at least 12 inches high by 12 inches wide, bearing the permit holder's name and address in letters and numerals at least one inch high, must be attached to each fishwheel so that the name and address are plainly visible.

(xi) All tributaries of the Copper River and waters of the Copper River not in the Upper Copper River District are closed to the taking of salmon.

(xii) Crosswind Lake is closed to all subsistence fishing.

(xiii) Salmon may not be taken in any area closed to commercial salmon fishing unless otherwise permitted.

(xiv) Salmon may not be taken in the Chitina Subdistrict, or in any portion of the subdistrict, when those waters are closed to personal use salmon fishing.

(xv) Salmon may not be taken on the east side of the Copper River from the upstream edge of the Chitina-McCarthy Road Bridge upstream to the Alaska Department of Fish and Game regulatory marker located one quarter of a mile upstream of the bridge.

(xvi) Except as provided in this section, fish other than salmon and freshwater fish species may be taken for subsistence purposes without a subsistence fishing permit.

(xvii) Salmon and freshwater fish species may be taken only under the authority of a subsistence fishing permit.

(xviii) Only one subsistence fishing permit will be issued to each household per year.

(xix) A subsistence salmon fishing permit for the Upper Copper River District will be issued only to a resident domiciled in Game Management Units 11, 13-A, 13-B, 13-C, and 13-D; in Game Management Unit 12 except that portion east of the Nabesna River and south of the winter trail running southeast from Pickerel Lake to the Canadian border; and in that road-connected area of Game Management Unit 20-D from Alaska Highway Milepost 1371.4 to Milepost 1347. The following apply to Upper Copper River District subsistence salmon fishing permits:

(A) Only one type of gear may be specified on a permit;

(B) Only one permit per year may be issued to a household;

(C) Permits must be returned to the Alaska Department of Fish and Game no later than October 31, or a permit for the following year may be denied.

(D) During closed fishing periods, the Alaska Department of Fish and Game's Chitina permit issuing station may be closed or operated at reduced hours to reduce costs.

(xx) The total annual possession limit for an Upper Copper River District subsistence salmon fishing permit is as follows:

(A) 30 salmon for a household with one person;

(B) 60 salmon for a household with two persons;

(C) 10 salmon for each additional person in a household over two;

(D) Upon request, permits for additional salmon will be issued with the following limits:

(1) No more than a total of 200 salmon for a permit issued to a household with one person;

(2) No more than a total of 500 salmon for a permit issued to a household with two or more persons.

(xxi) No person may possess salmon taken under the authority of an Upper Copper River District subsistence fishing permit unless the dorsal fin has been immediately removed from the salmon.

(xxii) In locations open to commercial salmon fishing and in conformance with commercial salmon fishing regulations, the annual subsistence salmon limit is as follows:

(A) 15 salmon for a household of one person;

(B) 30 salmon for a household of two persons;

(C) 10 salmon for each additional person in a household over two;

(D) No more than five king salmon may be taken per permit.

(xxiii) Salmon, other than chinook salmon, may be taken in the vicinity of the former native village of Batzulnetas under the following conditions:

(A) Salmon may be taken only under the authority of a Batzulnetas subsistence salmon fishing permit issued by ADF&G; permits may be issued only to those residents domiciled in the villages of Dot Lake and Mentasta;

(B) Salmon may be taken only in those waters of the Copper River between Alaska Department of Fish and Game regulatory markers located near the mouth of Tanada Creek and approximately one-half mile downstream from that mouth and in Tanada Creek between Alaska Department of Fish and Game

regulatory markers identifying the open waters of the creek;

(C) Fishwheels and dipnets only may be used on the Copper River; dipnets and spears only may be used in Tanada Creek;

(D) Salmon may be taken only from June 1 through September 1 or until the season is closed by emergency order; fishing periods are to be established by emergency order and are two days per week during the month of June and 3.5 days per week for the remainder of the season;

(E) Chinook salmon taken must be released to the water unharmed; fish wheels must be equipped with a live box or be monitored at all times;

(F) The permit must be returned to the Alaska Department of Fish and Game's Glennallen office no later than September 30 of each year.

(xxiv) Subsistence salmon fishing permits for the Southwestern District and Green Island may be issued only to those residents domiciled in the Southwestern District which is mainland waters from the outer point on the north shore of Granite Bay to Cape Fairfield and all waters surrounding Knight Island, Chenega Island, Bainbridge Island, Evans Island, Elrington Island, Latouche Island and adjacent islands. Salmon may be taken for subsistence purposes in those waters only as follows:

(A) Salmon may be taken only in the Southwestern District, as described in above, and along the northwestern shore of Green Island from the westernmost tip of the island to the northernmost tip;

(B) Salmon may be taken only by gill nets up to 150 fathoms in length, except that pink salmon may be taken in fresh water by dipnets only;

(C) Salmon may be taken only from May 15 through September 30;

(D) Fishing periods are from May 15 until two days before the commercial opening of the Southwestern District, seven days per week; during the commercial salmon fishing season, only during open commercial salmon fishing periods; and from two days following the closure of the commercial salmon season until September 30, seven days per week;

(E) No fishing is allowed within the closed waters areas for commercial salmon fisheries; only pink salmon may be taken in fresh water;

(F) There are no bag and possession limits for this fishery;

(G) Permits may be issued only at Chenega Bay village.

(xxv) Subsistence salmon fishing permits for those waters north of a line from Porcupine Point to Granite Point,

and south of a line from Point Lowe to Tongue Point, may be issued only to those residents domiciled in the villages of Tatitlek and Ellamar. Salmon may be taken for subsistence purposes in those waters only as follows:

(A) Salmon may be taken only in those waters north of a line from Porcupine Point to Granite Point, and south of a line from Point Lowe to Tongue Point;

(B) Salmon may be taken only by gill nets up to 150 fathoms in length, with a maximum mesh size of 6.25 inches, except that pink salmon may be taken in fresh water by dipnets only;

(C) Salmon may be taken only from May 15 through September 30;

(D) Fishing periods are from May 15 until two days before the commercial opening of the Southwestern District, seven days per week; during the commercial salmon fishing season, only during open commercial salmon fishing periods; and from two days following the closure of the commercial salmon season until September 30, seven days per week;

(E) No fishing is allowed within the closed waters areas for commercial salmon fisheries; only pink salmon may be taken in fresh water;

(F) There are no bag and possession limits for this fishery;

(G) Permits may be issued only at Tatitlek village.

(12) Yakutat Area. (i) The Yakutat area includes all waters of Alaska between the longitude of Cape Suckling and the longitude of Cape Fairweather.

(ii) Unless restricted in this section or unless restricted under the terms of a subsistence fishing permit, fish may be taken at any time in the Yakutat area.

(iii) Salmon may not be taken during the period commencing 48 hours before an opening until 48 hours after the closure of an open commercial salmon net fishing season. This applies to each river or bay fishery individually.

(iv) When the length of the weekly commercial salmon net fishing period exceeds two days in the Yakutat Area salmon net fishery the subsistence fishing period is from 6:00 a.m. to 6:00 p.m. on Saturday in that location.

(v) Only those residents domiciled east of Yakutat Bay, including the islands within Yakutat Bay, west of the Situk River drainage, and south of and including Knight Island may take

(A) Herring and herring spawn in waters of Yakutat Bay, including Russell Fiord, within a line from the westernmost point of Point Manby to the southernmost point of Ocean Cape;

(B) Bottomfish in waters of Yakutat Bay, including Russell Fiord, and in

waters of Alaska from Point Manby to Ocean Cape bounded by Loran C lines 7960-Y-30630 and 7960-Y-30430;

(C) Salmon in freshwater upstream from the terminus of streams and rivers of the Yakutat area from the Doame River to the Tsiu River, in waters of Yakutat Bay and Russell Fiord inside a line from the westernmost point of Point Manby to the southernmost point of Ocean Cape, and in waters of Icy Bay inside a line from the Westernmost tip of Point Riou to Icy Cape Light;

(D) Dolly varden char, steelhead trout, and smelt in freshwater upstream from the terminus of streams and rivers of the Yakutat area from the Doame River to Point Manby, and in waters of Yakutat Bay and Russell Fiord inside a line from the westernmost point of Point Manby to the southernmost point of Ocean Cape.

(vi) Fish may be taken by gear previously listed, unless restricted in this section or under the terms of a subsistence fishing permit.

(vii) In the Situk River, each subsistence salmon fishing permit holder shall attend his or her gill net at all times when it is being used to take salmon.

(viii) Salmon, trout and char may be taken only under authority of a subsistence fishing permit.

(ix) The Alaska Department of Fish and Game shall not issue a permit for the taking of steelhead trout, but steelhead trout taken incidentally by gear operated under the terms of a subsistence permit for salmon are legally taken and possessed for subsistence purposes. The holder of a subsistence salmon permit must report any steelhead trout taken in this manner on his or her permit calendar.

(x) Salmon, trout, or char taken incidentally by gear operated under the terms of a subsistence permit for salmon are legally taken and possessed for subsistence purposes. The holder of a subsistence salmon permit must report any salmon, trout, or char taken in this manner on his or her permit calendar.

(xi) Subsistence fishermen must remove the dorsal fin from subsistence caught salmon when taken.

(13) Southeastern Alaska Area. (i) The Southeastern Alaska Area includes all waters between a line projecting southwest from the westernmost tip of Cape Fairweather and Dixon Entrance.

(A) District 1: All waters east and north of a line from the southernmost tip of Caamano Point to 54°40' N. lat., 131°45' W. long., and north of a line from 54°40' N. lat., 131°45' W. long., 54°42'29" N. lat., 130°36'55" W. long.

(1) Section 1-A: All waters of Portland Canal north of the latitude of Hattie Island light;

(2) Section 1-B: All waters south of Section 1-A and east and south of a line extending three miles bearing 297° from the range marker located at Foggy Point (54°55'32" N. lat., 130°58'30" W. long.) and then south to intersect a line between Barren Island Light and Lord Rock Light, then to Lord Rock Light, and then to the southern boundary of district 1;

(3) Section 1-C: Waters of the district between a line from a point at 55°11'47" N. lat., 131°05'08" W. long., located on Point Sykes to a point at 55°12'13" N. lat., 131°05'42" W. long., located one-half mile northwest of Point Sykes to Point Alava, and a line from Point Eva to Cactus Point;

(4) Section 1-D: Waters of the district between a line from Point Eva to Cactus Point and a line from Nose Point to Snail Point;

(5) Section 1-E: Waters of the district between a line from Caamano Point to Point Higgins and a line from Nose Point to Snail Point;

(6) Section 1-F: All other waters of the District.

(B) District 2: All waters south of a line from the easternmost tip of Narrow Point to the northernmost tip of Lemesurier Point, west of District 1 and east of a line from Point Marsh Light to 54°40' N. lat., 132°17'30" W. long.

(C) District 3: All waters north of a line from Point Marsh Light to 54°40' N. lat., 132°17'30" W. long. to the southernmost tip of Cape Mazon and east of a line from the northernmost tip of Eagle Point on Dall Island and passing successively through the southernmost tip of Point Arboleda, the northernmost tip of Point San Roque, the southernmost tip of Cape Ulitka, the northeasternmost tip of Cape Lynch to the southwest entrance point of Halibut Harbor on Kosciusko Island, and south of the latitude of Anesket Point (56°08'50" N. lat.);

(1) Section 3-A: Waters of the district south of 55°15' N. lat., excluding waters of Meares Passage;

(2) Section 3-B: Waters of the district south of the latitude of Cape Lynch (55°47' N. lat.) and north of 55°15' N. lat., including all waters of Meares Passage;

(3) Section 3-C: Waters of the district north of the latitude of Cape Lynch (55°47' N. lat.);

(D) District 4: All waters north of Cape Mazon, west of District 3, and south of a line from Helm Point on Coronation Island to Cape Lynch.

(E) District 5: Waters of Sumner Strait, north and east of a line from Cape Decision of Helm Point to Cape Lynch to

the southwest entrance point of Halibut Harbor, and north of the latitude of Anesket Point, west of a line from Point Baker to Point Barrie, and south of a line from Point Camden to Salt Point Light in Keku Strait.

(F) District 6: All waters of Clarence Strait north of a line from Narrow Point to Lemesuriere Point to Ernest Point to the most southerly point of Etolin Island, Stikine Strait south of the latitude of Round Point, Sumner Strait west of a line from Point Alexander to Low Point, and east of a line from Point Baker to Point Barrie, Wrangell Narrows south and west of a line from Prolewy Point to the northern tip of Mitkof Island, and all waters of Duncan Canal;

(1) Section 6-A: Waters north of a line from the tip of Point Colpoys to the tip of Macnamara Point, west of a line from the tip of Low Point to the tip of Point Alexander and east of a line from the tip of Point Barrie to the tip of Point Baker;

(2) Section 6-B: Waters south of a line from the tip of Point Colpoys to the tip of Macnamara Point, north and west of a line from the tip of Luck Point to the tip of Point Stanhope to Lincoln Rock Light to Key Reef Light to Nesbitt Reef Light to the tip of Point Nesbitt.

(3) Section 6-C: Waters enclosed by a line from Lincoln Rock Light to the westernmost point of Screen Islands to the westernmost point of Marsh Island to the westernmost point of Steamer Rocks to Mariposa Rock Buoy to the tip of Point Nesbitt to Nesbitt Reef Light to Key Reef Light to Lincoln Rock Light;

(4) Section 6-D: all other waters of the district.

(G) District 7: All contiguous waters of Ernest Sound and Bradfield Canal east of a line from Lemesurier Point to Ernest Point to the most southerly point of Etolin Island, Zimovia Strait south of the latitude of Nemo Point, and Eastern Passage and Blake Channel south of a line from Babbler Point to Hour Point;

(1) Section 7-A: Waters of the district north of the latitude of Point Eaton;

(2) Section 7-B: Waters of the district south of the latitude of Point Eaton.

(H) District 8: Waters of Frederick Sound south of a line from Wood Point to beacon Point (excluding Wrangell Narrows), Stikine Strait, Sumner Strait, Zimovia Strait and eastern Passage inside a line from Point Alexander to Low Point to Round Point to Nemo Point to Hour Point to Babbler Point;

(1) Section 8-A: Waters of the district north of a line from Blaquiére Point to Kakwan Point.

(2) Section 8-B: Waters of the district south of a line from Blaquiére Point to Kakwan Point.

(I) District 9: All waters of Frederick Sound and Chatham Strait south of the latitude of the southernmost tip of Point Gardner, south of the latitude of the southernmost tip of Elliott Island and west of a line from the southernmost tip of Elliott Island to the westernmost tip of Point Macartney, north and west of a line from the northernmost tip of Point Camden to Salt Point Light, north and east of a line from the southernmost tip of Cape Decision to the southernmost tip of Helm Point to the westernmost tip of Hazy Islands to Cape Ommaney Light;

(J) Section 9-A: Waters of the district west of a line from Nation Point on Coronation Island to the latitude of Point Gardner two miles west of Point Gardner;

(2) Section 9-B: Waters of the district east of a line from Nation Point on Coronation Island to the latitude of Point Gardner two miles west of Point Gardner.

(J) District 10: Frederick Sound, Stephens Passage and contiguous waters north of a line from Beacon Point to Wood Point, east of a line from Point Macartney to the southern tip of Elliott Island, north of the latitude of the southern tip of Elliott Island, Seymour Canal south of 57°37' N. lat., and south of a line from Point League to Point Hugh.

(K) District 11: Stephens Passage and contiguous waters north of a line from Point League to Point Hugh and Seymour Canal north of 57°37' N. lat., south of the latitude of Little Island Light, and east of a line from Little Island Light to Point Retreat Light;

(1) Section 11-A: Waters of the district north and west of a line from a point at 58°12'20" N. lat., 134°10' W. long., to the Coast Guard marker and Light on Point Arden;

(2) Section 11-B: Waters of the district north of the latitude of Midway Island Light and south and east of a line from a point at 58°12'20" N. lat., 134°10' W. long., to the Coast Guard marker and Light on Point Arden.

(3) Section 11-C: Waters of the district south of the latitude of Midway Island Light to a line from Point League to Point Hugh;

(4) Section 11-D: All waters of Seymour Canal north of 57°37' N. lat.

(L) District 12: All waters of Lynn Canal and Chatham Strait south of the latitude of Little Island Light to the latitude of Point Gardner, west of a line from Little Island Light to Point Retreat Light, east of a line from Point Couverdon to Point Augusta, and east of a line from Point Hayes to Point Thacher.

(J) Section 12-A: All waters of Chatham Strait south of the latitude of

Point Couverdon (58°11'25" N. lat.) to the latitude of Point Gardner (57°01' N. lat.), east of a line from the southeasternmost tip of Point Hayes to the northernmost tip of Point Thacher;

(2) Section 12-B: All waters of Lynn Canal south of the latitude of Little Island Light, west of a line from Little Island Light to Point Retreat Light and north of the latitude of Point Couverdon (58°11'25" N. lat.).

(M) District 13: All waters north of the latitude of the southernmost tip of Helm Point and west of a line from the southernmost tip of Helm Point to the westernmost tip of Hazy Island to Cape Ommaney Light, south of a line projecting west from the southernmost tip of Cape Spencer through Yakobi Rock to Yakobi Island, south of a line from the northernmost tip of Soapstone Point to the westernmost tip of Column Point and west of a line from the southernmost tip of Point Hayes to the northernmost tip of Point Thacher.

(1) Section 13-A: All waters north of 57°16' N. lat. and those waters of Peril Strait south of the latitude of Pogibshi Point (57°30'30" N. lat.);

(2) Section 13-B: All waters south of 57°16' N. lat.;

(3) Section 13-C: Waters of the district north of the latitude of Pogibshi Point and west of a line from Point Hayes to Point Thatcher in Peril Strait.

(N) District 14: All waters of Icy Strait west of a line from the southernmost tip of Point Couverdon to Point Augusta Light, east of a straight line from the southernmost tip of Cape Spencer through Yakobi Rock to Yakobi Island and north of a line from the northernmost point of Soapstone Point to the westernmost point of Column Point;

(1) District 14-A: Waters of the district west of a line beginning at 58°13' N. lat., 135°57' W. long. to Lemesurier Island to Point Carolus;

(2) Section 14-B: Waters of the district east of a line beginning 58°13' N. lat., 135°57' W. long. to Lemesurier Island to Point Carolus and west of a line from Point Sophia to Excursion Point at 58°22'30" N. lat., 135°29' W. long.;

(3) Section 14-C: Waters of the district east of a line from Point Sophia to Excursion Point at 58°22'30" N. lat., 135°29' W. long.

(O) District 15: All waters of Lynn Canal north of the latitude of Little Island Light;

(1) Section 15-A: All waters of the district north of the latitude of Sherman Rock Light;

(2) Section 15-B: Waters of Berners Bay east of a line from Point St. Mary to Point Bridget;

(3) Section 15-C: All waters of the district south of the latitude of Sherman Rock Light, except for the waters of Section 15-B.

(P) District 16: All waters north of a line projecting west from the southernmost tip of Cape Spencer and south of a line projecting southwest from the westernmost tip of Cape Fairweather.

(Q) Dixon Entrance District: All waters east of 138°45'20" W. long., south of the southern boundaries of Districts 1, 2, 3 and 4 and north of a line from 54°43'30" N. lat., 130°37'37" W. long., to 54°43'24" N. lat., 130°37'39" W. long., to 54°43'15" N. lat., 130°37'44" W. long., to 54°43'00" N. lat., 130°37'55" W. long., to 54°42'58" N. lat., 130°37'57" W. long., to 54°42'47" N. lat., 130°38'06" W. long., to 54°42'22" N. lat., 130°38'26" W. long., to 54°41'09" N. lat., 130°38'58" W. long., to 54°39'54" N. lat., 130°38'58" W. long., to 54°39'14" N. lat., 130°39'18" W. long., to 54°39'48" N. lat., 130°41'35" W. long., to 54°40'03" N. lat., 130°42'22" W. long., to 54°40'42" N. lat., 130°44'43" W. long., to 54°40'41" N. lat., 130°44'59" W. long., to 54°40'46" N. lat., 130°45'51" W. long., to 54°41'06" N. lat., 130°48'31" W. long., to 54°41'05" N. lat., 130°49'17" W. long., to 54°41'21" N. lat., 130°53'18" W. long., to 54°41'26" N. lat., 130°53'39" W. long., to 54°42'27" N. lat., 130°56'18" W. long., to 54°42'34" N. lat., 130°57'09" W. long., to 54°43'00" N. lat., 130°57'41" W. long., to 54°43'46" N. lat., 130°58'55" W. long., to 54°44'12" N. lat., 130°59'44" W. long., to 54°45'39" N. lat., 131°03'06" W. long., to 54°46'16" N. lat., 131°04'43" W. long., to 54°42'11" N. lat., 131°13'00" W. long., to 54°11' N. lat., 134°01'52" N. lat., 131°13'54" W. long., to 54°39'09" N. lat., 131°16'17" W. long., to 54°36'52" N. lat., 131°19'22" W. long., to 54°29'53" N. lat., 131°33'48" W. long., to 54°30'32" N. lat., 131°38'01" W. long., to 54°28'18" N. lat., 131°45'20" W. long., to 54°26'41" N. lat., 131°49'28" W. long., to 54°21'51" N. lat., 132°02'54" W. long., to 54°24'52" N. lat., 132°23'39" W. long., to 54°24'41" N. lat., 132°24'29" W. long., to 54°24'41" N. lat., 132°24'35" W. long., to 54°24'39" N. lat., 132°26'51" W. long., to 54°24'34" N. lat., 132°38'16" W. long., to 54°24'54" N. lat., 132°39'46" W. long., to 54°26'00" N. lat., 132°44'12" W. long., to 54°27'07" N. lat., 132°49'35" W. long., to 54°27'07" N. lat., 132°50'42" W. long., to 54°28'25" N. lat., 132°55'54" W. long., to 54°28'32" N. lat., 132°56'28" W. long., to 54°30'03" N. lat., 133°07'00" W. long., to 54°30'10" N. lat., 133°07'43" W. long., to 54°30'42" N. lat., 133°11'28" W. long., to 54°31'02" N. lat., 133°14'00" W. long., to 54°30'06" N. lat., 133°16'58" W. long., to 54°22'01" N. lat., 133°44'24" W. long., to 54°20'33" N. lat., 133°49'21" W. long., to 54°15'40" N. lat.,

134°19'49" W. long., to 54°12'57" N. lat.,
134°23'47" W. long., to 54°12'45" N. lat.,
134°25'03" W. long., to 54°07'30" N. lat.,
134°56'24" W. long., to 54°00'01" N. lat.,
135°45'57" W. long., to 53°28'27" N. lat.,
138°45'20" W. long.

(ii) Unless restricted in this section or under the terms of a subsistence fishing permit, fish may be taken in the Southeastern Alaska Area at any time.

(iii) Herring may be taken at any time except that vessels licensed as commercial fishing vessels may not be used to take herring for personal use in any district that is open for commercial herring fishing for 72 hours before, during and 72 hours after any open commercial herring fishing period for that district when the vessel has aboard it any person holding a Southeastern Alaska Area winter bait herring or herring sac roe interim-use or entry permit.

(iv) Coho salmon may be taken from Salt Lake and Mitchell Bay from August 1 through October 31.

(v) From July 7 through July 31, sockeye salmon may be taken in the waters of Klawock Inlet enclosed by a line from Klawock Light to the Klawock Oil Dock, the Klawock River, and Klawock Lake only from 8:00 a.m. Monday until 5:00 p.m. Friday.

(vi) Finfish may be taken for subsistence purposes only as provided in this section:

(A) Klukwan: Only those residents domiciled west of the Haines highway between Mile 20 and Mile 24 and east of the Chilkat River may take herring, herring spawn, and bottomfish in waters of Section 15-A; and salmon and smelt in all waters of the Chilkat River and Chilkat Inlet north of the latitude of Glacier Point, and in the Chilkoot River, Lutak Inlet, and Chilkoot Inlet north of the latitude of Battery Point, excluding waters of Taiya Inlet north of the latitude of the tip of Taiya Point.

(B) Haines: Only those residents domiciled in the City and Borough of Haines, excluding residents domiciled in the village of Klukwan and in the drainage of Excursion Inlet, may take herring, herring spawn, and bottomfish in waters of Section 15-A; and salmon and smelt in all waters of the Chilkat River and Chilkat Inlet north of the latitude of Glacier Point, and in the Chilkoot River, Lutak Inlet, and Chilkoot Inlet north of the latitude of Battery Point, excluding waters of Taiya Inlet north of the latitude of the tip of Taiya Point.

(c) Hoonah: Only those residents domiciled in the City of Hoonah and in Chichagof Island drainage on the eastern shore of Port Frederick from Gartina Creek to Point Sophia may take

herring, herring spawn, and bottomfish in waters of District 14 east of the longitude of Point Dundas; and salmon, smelt, and dolly varden char in waters of section 14-B and 14-C, in District 13 in waters along the western shore of Yakobi Island east of a line from Cape Spencer Light to Surge Bay Light, and in District 12 in waters of Basket Bay inside a line from 57°39'50" N. lat., 134°53'12" W. long. to 57°39'17" N. lat., 134°53'53" W. long.

(D) Angoon: Only those residents domiciled in the City of Angoon and along the western shore of Admiralty Island north of the latitude of Sand Island, south of the latitude of Thayer Creek, and west of 134°30' W. long., including Killisnoo Island, may take herring, herring spawn, and bottomfish in waters of District 12 between the latitude of Parker Point and the latitude of Point Caution, and in Section 13-C east of the longitude of Point Elizabeth; and salmon and dolly varden char in waters of District 12 south of a line from Fishery Point to South Passage Point and north of the latitude of Point Caution and in waters of Section 13-C east of the longitude of Point Elizabeth.

(E) Sitka: Only those residents of the City and Borough of Sitka domiciled in drainage which empty into Section 13-B north of the latitude of Dorothy Narrows, except those domiciled in the U.S. Coast Guard base on Japonski Island, may take herring and herring spawn in waters of Section 13-B north of the latitude of Aspid Cape; and sockeye salmon in waters of Section 13-A south of the latitude of Cape Edward, in waters of Section 13-B north of the latitude of Redfish Cape, and in waters of Section 13-C.

(F) Kake: Only those residents domiciled in the City of Kake and in Kupreanof Island drainage into Keku Strait south of Point White and north of the Portage Bay boat harbor may take herring, herring spawn, and bottomfish in waters of Section 9-B north of the latitude of Point Ellis, in waters of District 10 west of a line from Pinta Point to Point Pybus, and in waters of District 5 north of 56°40' N. lat.; and salmon and dolly varden char in Sections 9-A and 9-B in waters north of the latitude of Swain Point, in waters of District 10 west of a line from Pinta Point to False Point Pybus, and in waters of District 5 north of a line from Point Barrie to Boulder Point.

(G) Saxman: Only those residents domiciled in the City of Saxman may take herring and herring spawn in waters of Section 1-F between Point Sykes and Foggy Point to a distance of 2 nautical miles from shore; bottomfish in waters of Section 1-F north of the

latitude of the northernmost tip of Mary Island, except waters of Boca de Quadra, and in waters of Section 1-E south of the latitude of Grant Island light; and salmon and dolly varden char in waters of Section 1-C in Checats Cove east of the longitude of Edith Point, in waters of Section 1-D in Yes Bay north of a line from Syble Point to Bluff Point, in Section 1-E in waters of Helm Bay north of the latitude of Helm Point and in waters of the Naha River and Roosevelt Lagoon, and in Section 1-F in waters of George Inlet north of 55°26' N. lat. and in Boca de Quadra in waters of Sockeye Creek and Hugh Smith Lake within 500 yards of the terminus of Sockeye Creek.

(H) Kasaan: Only those residents domiciled in the City of Kasaan and in the drainage of the southeastern shore of the Kasaan Peninsula west of 132°20' W. long. and east of 132°25' W. long. may take herring and herring spawn in waters of District 2 north of the latitude of the northernmost tip of Chasina Point and west of a line from the northernmost tip of Chasina Point to the easternmost tip of Grindall Island to the easternmost tip of the Kasaan Peninsula, and in waters of Section 3-B in San Alberto Bay north of the latitude of the southernmost tip of Cape Suspiro and east of 133°20' W. long.; and salmon, dolly varden char, and bottomfish in waters of District 2 north of the latitude of the northernmost tip of Chasina Point and west of a line from the northernmost tip of Chasina Point to the easternmost tip of Grindall Island to the easternmost tip of the Kasaan Peninsula.

(I) Klawock: Only those residents domiciled in the City of Klawock and on Prince of Wales Island within the boundaries of the Klawock Heenya Corporation land holdings as they exist in January 1989 may take herring and herring spawn in waters of Section 3-B in San Alberto Bay north of the latitude of the southernmost tip of Cape Suspiro and east of 133°20' W. long., and in waters of Section 3-A in Tlevak Strait north of the latitude of High Point and south of the latitude of Eolus Point; bottomfish in waters of Section 3-B; and salmon, dolly varden char, and steelhead trout in Section 3-B in waters east of line from Point Ildefonso to Tranquil Point and in waters of Warm Chuck Inlet north of a line from a point on Hecata Island at 55°44' N. lat., 133°25' W. long. to Bay Point, and in Section 3-C in waters of Karheen Passage north of 55°48' N. lat. and east of 133°20' W. long. and in waters of Sarkar Cove and Sarkar Lakes.

(J) Craig: Only those residents domiciled in the City of Craig and on

Prince of Wales Island within the boundaries of the Shan Seet Corporation land holdings as they exist in January 1989 may take herring and herring spawn in waters of Section 3-B in San Alberto Bay north of the latitude of the southernmost tip of Cape Suspiro and east of 133°20' W. long., and in waters of Section 3-A in Tlevak Strait north of the latitude of High Point and south of the latitude of Eolus Point; bottomfish in waters of Section 3-B; and salmon, dolly warden char, and steelhead trout in Section 3-B in waters east of a line from Point Ildefonso to Tranquil Point and in waters of Warm Chuck Inlet north of a line from a point of Hecata Island at 55°44' N. lat., 133°25' W. long. to Bay Point, and in Section 3-C in waters of Karheen Passage north of 55°48' N. lat. and east of 133°20' W. long. and in waters of Sarkar Cove and Sarkar Lakes.

(K) Hydaburg: Only those residents domiciled in the townsite of Hydaburg may take herring and herring spawn in waters of Section 3-A in Tlevak Strait north of the latitude of High Point and south of the latitude of Eolus Point, and in waters of Section 3-B in San Alberto Bay north of the latitude of the southernmost tip of Cape Suspiro and east of 133°20' W. long.; bottomfish in waters of Section 3-A, and in waters of Section 3-B south of the latitude of Bocas Point, excluding Port Refugio; and salmon and dolly warden char in waters of Section 3-A and in waters of District 2 in Nichols Bay north of 54°42' 07" N. lat.

(vii) Fish may be taken by gear previously listed except as may be restricted under the terms of a subsistence fishing permit and except as follows:

(A) In District 13, Redoubt Bay, gill net or seine gear may not be used to take salmon in any waters of the bay closed to commercial salmon fishing;

(B) Set gill nets may not be used to take salmon except in the mainstream and side channels, but not the tributaries, of the Chilkat River from the terminus to one mile upstream of Wells Bridge;

(C) Beach seines and gaffs only may be used to take coho salmon during the season and including coho salmon which may be taken from Salt Lake and Mitchell Bay from August 1 through October 31.

(viii) The following waters are closed to subsistence salmon fishing: in District 15, saltwaters of Lynn Canal including Chilkat, Chilkoot and Lutak Inlets, during the closed period of the commercial salmon net fishery in the district, except that salmon may be taken in saltwaters of Lutak Inlet on the

Saturday before any period that the commercial salmon net fishery is open in the inlet to the terminus of the Chilkoot River.

(ix) Salmon, trout, char and herring spawn on kelp may be taken only under authority of a subsistence fishing permit.

(x) Permits will not be issued for taking chinook or coho salmon, except for coho salmon as provided in Salt Lake and Mitchell Bay from August 1 through October 31, but chinook or coho salmon taken incidentally by gear operated under terms of a subsistence permit for other salmon are legally taken and possessed for subsistence purposes. The holder of a subsistence salmon fishing permit must report and chinook or coho salmon taken in this manner on his or her permit calendar.

(xi) In the Chilkat River, the subsistence fishing permit holder shall be physically present at the net while it is fishing.

(xii) Subsistence salmon fishing permits for the fishery provided for Salt Lake and Mitchell Bay will be issued only to those persons domiciled in Angoon and only one permit will be issued for a household. The number of coho salmon that may be taken on a permit will be specified by the Alaska Department of Fish and Game after it has assessed the level of effort that will be involved in that fishery.

(xiii) When issuing a herring spawn on kelp subsistence fishing permit, ADF&G may specify on the permit the times and locations for harvesting and the species of kelp that may be taken. The annual possession limit for herring spawn on kelp is 32 pounds for an individual or 158 pounds for a household of two or more persons. ADF&G will, in its discretion, issue an additional permit for herring spawn on kelp above the annual possession limit if harvestable surpluses of herring spawn on kelp are available.

(xiv) Before July 4, subsistence salmon fishing permits may be operated in Sitkoh Bay only by residents of Angoon. On and after July 4, subsistence salmon fishing permits may be operated in Sitkoh Bay by residents of both Angoon and Sitka.

(xv) The Alaska Department of Fish and Game shall not issue a permit for the taking of steelhead trout, but steelhead trout taken incidentally by gear operated under the terms of a subsistence permit for salmon are legally taken and possessed for subsistence purposes. The holder of a subsistence salmon permit must report any steelhead trout taken in this manner on his or her permit calendar.

(xvi) Salmon, trout, or char taken incidentally by gear operated under the

terms of a subsistence permit for salmon are legally taken and possessed for subsistence purposes. The holder of a subsistence salmon permit must report any salmon, trout, or char taken in this manner on his or her permit calendar.

(xvii) Subsistence fishermen shall immediately remove the dorsal fin of all salmon when taken.

(xviii) In the waters of the Klawock Inlet enclosed by a line from Klawock Light to the Klawock Oil Dock, no person may subsistence salmon fish from a vessel that is powered by a motor of greater than 35 horsepower.

(xix) no person may possess subsistence-taken and sport-taken salmon on the same day.

§ 25 [Reserved]

§ 26 Subsistence shellfish.

(a) Regulations in this section apply to subsistence fishing on public lands for dungeness crab, king crab, tanner crab, shrimp, clams, abalone and other types of shellfish or their parts. The descriptions of legal types of gear and definitions in § 24(c) are applicable to the regulations of this section (derived from 5 AAC 02.001).

(b) Shellfish may be taken for subsistence uses at any time in any area of the public lands by any method unless restricted by the subsistence fishing regulations of this section and § 24 (derived from 5 AAC 02.005).

(c) Methods, means, and general restrictions. (1) The bag limit specified herein for a subsistence season for a species and the state bag limit set for a state general season for the same species are not cumulative. This means that a person or designated group who has taken the bag limit for a particular species under a subsistence season specified herein may not after that, take any additional shellfish of that species under any other bag limit specified for a State general season.

(2) Unless otherwise provided in this section, the following are legal types of gear for subsistence fishing (derived from 5 AAC 02.010):

(i) Gear specified in § 24(c);

(ii) Jigging gear which consists of a line or lines with lures or baited hooks which are operated during periods of ice cover from holes cut in the ice and which are drawn through the water by hand;

(iii) A spear which is a shaft with a sharp point or fork-like implement attached to one end, used to thrust through the water to impale or retrieve fish and which is operated by hand;

(iv) A lead which is a length of net employed for guiding fish into a seine or a length of net or fending employed for guiding fish into a fishwheel, fyke net, or dip net;

(3) It is prohibited to buy or sell subsistence-taken shellfish, their parts, or their eggs, unless otherwise specified in this section.

(4) The use of explosives and chemicals is prohibited except that chemical baits or lures may be used to attract shellfish.

(5) Subsistence fishing by the use of a line attached to a rod or pole is prohibited except when fishing through the ice in the Bearing Sea.

(6) Each subsistence fisherman shall plainly and legibly inscribe his/her first initial, last name and address on a keg or buoy attached to unattended subsistence fishing gear. Subsistence fishing gear may not display a permanent Alaska Department of Fish and Game vessel license number.

(7) A side wall of all subsistence shellfish pots must contain an opening with a perimeter equal to or exceeding one-half of the tunnel eye opening perimeter. The opening must be laced, sewn, or secured together by untreated cotton twine or other natural fiber no larger than 120 thread. Dungeness crab and shrimp pots may have the pot lid tied down straps secured to the pot at one end by untreated cotton twine no larger than 120 thread, as a substitute for the above requirement.

(8) No person may mutilate or otherwise disfigure a crab in any manner which would prevent determination of the minimum size restrictions until the crab has been processed or prepared for consumption.

(9) In addition to the marking requirements in paragraph (c)(6) of this subsection, kegs or buoys attached to subsistence crab pots must also be inscribed with the name or U.S. Coast Guard number of the vessel used to operate the pots.

(10) No more than five pots per person and 10 pots per vessel may be used to take crab, except as specified in paragraph (f) of this section.

(11) In the subsistence taking of shrimp in the Southeastern Alaska-Yakutat and Prince William Sound Areas, no person may use more than 10 pots, and no more than 20 pots may be operated from a vessel. In the subsistence taking of shellfish other than shrimp in the Southeastern Alaska-Yakutat Area, no person may operate more than five pots of any type, and no more than 10 pots of any type may be operated from a vessel.

(d) *Subsistence Take by Commercial Vessels.* No fishing vessel which is

commercially licensed and registered for shrimp pot, shrimp trawl, king crab, tanner crab, or dungeness crab fishing may be used for subsistence take during the period starting 14 days before an opening until 14 days after the closure of a respective open season in the area or areas for which the vessel is registered (derived from 5 AAC 02.025).

(e) *Unlawful possession of Subsistence Shellfish.* No person may possess, transport, give, receive or barter subsistence taken shellfish or their parts that the person knows or should know were taken in violation of a Federal or State statute or a regulation promulgated thereunder (derived from 5 AAC 02.030).

(f) *Descriptions of Subsistence Shellfish Areas and Pertinent Restrictions.*—(1) Southeastern Alaska-Yakutat Area. (i) The Southeastern Alaska-Yakutat area has as its western boundary the longitude of Cape Suckling (143° 53' West longitude), its southern boundary the International Boundary at Dixon Entrance, and its seaward boundary the 400-fathom (732 m) depth contour.

(A) District 1: All waters east and north of a line from the southernmost tip of Caamano Point to 54°40' N. lat., 131°45' W. long., and north of a line from 54°40' N. lat., 131°45' W. long., 54°42'29" N. lat., 130°36'55" W. long.

(1) Section 1-A: All waters of Portland Canal north of the latitude of Hattie Island light;

(2) Section 1-B: All waters south of Section 1-A and east and south of a line extending three miles bearing 297° from the range marker located at Foggy Point (54°55'32" N. lat., 130°58'30" W. long.) and then south to intersect a line between Barren Island Light and Lord Rock Light, then to Lord Rock Light, and then to the southern boundary of district 1;

(3) Section 1-C: Waters of the district between a line from a point at 55°11'47" N. lat., 131°05'08" W. long., located on Point Sykes to a point at 55°12'13" N. lat., 131°05'42" W. long., located one-half mile northwest of Point Sykes to Point Alava, and a line from Point Eva to Cactus Point;

(4) Section 1-D: Waters of the district between a line from Point Eva to Cactus Point and a line from Nose Point to Snail Point;

(5) Section 1-E: Waters of the district between a line from Caamano Point to Point Higgins and a line from Nose Point to Snail Point;

(6) Section 1-F: All other waters of the District.

(B) District 2: All waters south of a line from the easternmost tip of Narrow Point to the northernmost tip of

Lemesusier Point, west of District 1 and east of a line from Point Marsh Light to 54°40' N. lat., 132°17'30" W. long.

(C) District 3: All waters north of a line from Point Marsh Light to 54°40' N. lat., 132°17'30" W. long. to the southernmost tip of Cape Muzon and east of a line from the northernmost tip of Eagle Point on Dall Island and passing successively through the southernmost tip of Point Arboleda, the northernmost tip of Point San Roque, the southernmost tip of Cape Ulitka, the northeasternmost tip of Cape Lynch to the southwest entrance point of Halibut Harbor on Kosciusko Island, and south of the latitude of Anesket Point (56°08'50" N. lat.);

(1) Section 3-A: Waters of the district south 55°15' N. lat., excluding waters of Meares Passage;

(2) Section 3-B: Waters of the district south of the latitude of Cape Lynch (55°47' N. lat.) and north of 55°15' N. lat., including all waters of Meares Passage;

(3) Section 3-C: Waters of the district north of the latitude of Cape Lynch (55°47' N. lat.);

(D) District 4: All waters north of Cape Muzon, west of District 3, and south of a line from Helm Point on Coronation Island to Cape Lynch.

(E) District 5: Waters of Sumner Strait, north and east of a line from Cape Decision of Helm Point to Cape Lynch to the southwest entrance point of Halibut Harbor, and north of the latitude of Anesket Point, west of a line from Point Baker to Point Barrie, and south of a line from Point Camden to Salt Point Light in Keku Strait.

(F) District 6: All waters of Clarence Strait north of a line from Narrow Point to Lemesuriere Point to Ernest Point to the most southerly point on Etolin Island. Stikine Strait south of the latitude of Round Point, Sumner Strait west of a line from Point Alexander to Low Point, and east of a line from Point Baker to Point Barrie, Wrangell Narrows south and west of a line from Prolewy Point to the northern tip of Mitkof Island, and all waters of Duncan Canal;

(1) Section 6-A: Waters north of a line from the tip of Point Colpoys to the tip of Macnamara Point, west of a line from the tip of Low Point to the tip of Point Alexander and east of a line from the tip of Point Barrie to the tip of Point Baker;

(2) Section 6-B: Waters south of a line from the tip of Point Colpoys to the tip of Macnamara Point, north and west of a line from the tip of Luck Point to the tip of Point Stanhope to Lincoln Rock Light to Key Reef Light to Nesbitt Reef Light to the tip of Point Nesbitt.

(3) Section 6-C: Waters enclosed by a line from Lincoln Rock Light to the

westernmost point of Screen Islands to the westernmost point of Marsh Island to the westernmost point of Steamer Rocks to Mariposa Rock Buoy to the tip of Point Nesbitt to Nesbitt Reef Light to Key Reef Light to Lincoln Rock Light;

(4) Section 6-D: All other waters of the district.

(G) District 7: All contiguous waters of Ernest Sound and Bradfield Canal east of a line from Lemesurier Point to Ernest Point to the most southerly point of Etolin Island, Zimovia Strait south of the latitude of Nemo Point, and Eastern Passage and Blake Channel south of a line from Babbler Point to Hour Point;

(1) Section 7-A: Waters of the district north of the latitude of Point Eaton;

(2) Section 7-B: Waters of the district south of the latitude of Point Eaton;

(H) District 8: Waters of Frederick Sound south of a line from Wood Point to Beacon Point (excluding Wrangell Narrows), Stikine Strait, Sumner Strait, Zimovia Strait and Eastern Passage inside a line from Point Alexander to Low Point to Round Point to Nemo Point to Hour Point to Babbler Point;

(1) Section 8-A: Waters of the district north of a line from Blaquiere Point to Kakwan Point.

(2) Section 8-B: Waters of the district south of a line from Blaquiere Point to Kakwan Point.

(I) District 9: All waters of Frederick Sound and Chatham Strait south of the latitude of the southernmost tip of Point Gardner, south of the latitude of the southernmost tip of Elliott Island and west of a line from the southernmost tip of Elliott Island to the westernmost tip of Point Macartney, north and west of a line from the northernmost tip of Point Camden to Salt Point Light, north and east of a line from the southernmost tip of Cape Decision to the southernmost tip of Helm Point to the westernmost tip of Hazy Islands to Cape Ommaney Light;

(1) Section 9-A: Waters of the district west of a line from Nation Point on Coronation Island to the latitude of Point Gardner two miles west of Point Gardner.

(2) Section 9-B: Waters of the district east of a line from Nation Point on Coronation Island to the latitude of Point Gardner two miles west of Point Gardner.

(J) District 10: Frederick Sound, Stephens Passage and contiguous waters north of a line from Beacon Point to Wood Point, east of a line from Point Macartney to the southern tip of Elliott Island, north of the latitude of the southern tip of Elliott Island, Seymour Canal south of 57°37' N. lat., and south of a line from Point League to Point

(K) District 11: Stephens Passage and contiguous waters north of a line from Point League to Point Hugh and Seymour Canal north of 57°37' N. lat., south of the latitude of Little Island Light, and east of a line from Little Island Light to Point Retreat Light;

(1) Section 11-A: Waters of the district north and west of a line from a point at 58°12'20" N. lat., 134°10' W. long., to the Coast Guard marker and Light on Point Arden;

(2) Section 11-B: Waters of the district north of the latitude of Midway Island Light and south and east of a line from a point at 58°12'20" N. lat., 134°10' W. long., to the Coast Guard marker and light on Point Arden.

(3) Section 11-C: Waters of the District south of the latitude of Midway Island Light to a line from Point League to Point Hugh;

(4) Section 11-D: All waters of Seymour Canal north of 57°37' N. lat.

(L) District 12: All waters of Lynn Canal and Chatham Strait south of the latitude of Little Island Light to the latitude of Point Gardner, west of a line from Little Island Light to Point Retreat Light, east of a line from Point Couverdon to Point Augusta, and east of a line from Point Hayes to Point Thatcher.

(1) Section 12-A: All waters of Chatham Strait south of the latitude of Point Couverdon (58°11'25" N. lat.) to the latitude of Point Gardner (57°01' N. lat.), east of a line from the southeasternmost tip of Point Hayes to the northernmost tip of Point Thatcher;

(2) Section 12-B: All waters of Lynn Canal south of the latitude of Little Island Light, west of a line from Little Island Light to Point Retreat Light and north of the latitude of Point Couverdon (58°11'25" N. lat.).

(M) District 13: All waters north of the latitude of the southernmost tip of Helm Point and west of a line from the southernmost tip of Helm Point to the westernmost tip of Hazy Island to Cape Ommaney Light, south of a line projecting west from the southernmost tip of Cape Spencer through Yakobi Rock to Yakobi Island, south of a line from the northernmost tip of Soapstone Point to the westernmost tip of Column Point, and west of a line from the southernmost tip of Point Hayes to the northernmost tip of Point Thatcher.

(1) Section 13-A: All waters north of 57°16' N. lat. and those waters of Peril Strait south of the latitude of Pogibshi Point (57°30'30" N. lat.);

(2) Section 13-B: All waters south of 57°16' N. lat.;

(3) Section 13-C: Waters of the district north of the latitude of Pogibshi Point

and west of a line from Point Hayes to Point Thatcher in Peril Strait.

(N) District 14: All waters of Icy Strait west of a line from the southernmost tip of Point Couverdon to Point Augusta Light, east of a straight line from the southernmost tip of Cape Spencer through Yakobi Rock to Yakobi Island and north of a line from the northernmost point of Soapstone Point to the westernmost point of Column Point;

(1) District 14-A: Waters of the district west of a line beginning at 58°13' N. lat., 135°57' W. long. to Lemesurier Island to Point Carolus;

(2) Section 14-B: Waters of the district east of a line beginning 58°13' N. lat., 135°57' W. long. to Lemesurier Island to Point Carolus and west of a line from Point Sophia to Excursion Point at 58°22'30" N. lat., 135°29' W. long.;

(3) Section 14-C: Waters of the district east of a line from Point Sophia to Excursion Point at 58°22'30" N. lat., 135°29' W. long.

(O) District 15: All waters of Lynn Canal north of the latitude of Little Island Light;

(1) Section 15-A: All waters of the district north of the latitude of Sherman Rock Light;

(2) Section 15-B: Waters of Berners Bay east of a line from Point St. Mary to Point Bridget;

(3) Section 15-C: All waters of the district south of the latitude of Sherman Rock Light, except for the waters of Section 15-B.

(P) District 16: All waters north of a line projecting west from the southernmost tip of Cape Spencer and south of a line projecting southwest from the westernmost tip of Cape Fairweather.

(Q) Dixon Entrance District: All waters east of 138°45'20" W. long., south of the southern boundaries of Districts 1, 2, 3 and 4 and north of a line from 54°43'30" N. lat., 130°37'37" W. long., to 54°43'24" N. lat., 130°37'39" W. long., to 54°43'15" N. lat., 130°37'44" W. long., to 54°43'00" N. lat., 130°37'55" W. long., to 54°42'58" N. lat., 130°37'57" W. long., to 54°42'47" N. lat., 130°38'06" W. long., to 54°42'22" N. lat., 130°38'26" W. long., to 54°41'09" N. lat., 130°38'58" W. long., to 54°39'54" N. lat., 130°38'58" W. long., to 54°39'14" N. lat., 130°39'18" W. long., to 54°39'48" N. lat., 130°41'35" W. long., to 54°40'03" N. lat., 130°42'22" W. long., to 54°40'42" N. lat., 130°44'43" W. long., to 54°40'41" N. lat., 130°44'59" W. long., to 54°40'46" N. lat., 130°45'51" W. long., to 54°41'06" N. lat., 130°48'31" W. long., to 54°41'05" N. lat., 130°49'17" W. long., to 54°41'21" N. lat., 130°53'18" W. long., to 54°41'26" N. lat., 130°53'39" W. long., to

54°42'27" N. lat., 130°56'18" W. long., to 54°42'34" N. lat., 130°57'09" W. long., to 54°43'00" N. lat., 130°57'41" W. long., to 54°43'46" N. lat., 130°58'55" W. long., to 54°44'12" N. lat., 130°59'44" W. long., to 54°45'39" N. lat., 131°03'06" W. long., to 54°46'16" N. lat., 131°04'43" W. long., to 54°42'11" N. lat., 131°13'00" W. long., to 54°40'52" N. lat., 131°13'54" W. long., to 54°39'09" N. lat., 131°16'17" W. long., to 54°36'52" N. lat., 131°19'22" W. long., to 54°29'53" N. lat., 131°33'48" W. long., to 54°30'32" N. lat., 131°38'01" W. long., to 54°28'18" N. lat., 131°45'20" W. long., to 54°26'41" N. lat., 131°49'28" W. long., to 54°21'51" N. lat., 132°02'54" W. long., to 54°24'52" N. lat., 132°23'39" W. long., to 54°24'41" N. lat., 132°24'29" W. long., to 54°24'41" N. lat., 132°24'35" W. long., to 54°24'39" N. lat., 132°26'51" W. long., to 54°24'34" N. lat., 132°38'16" W. long., to 54°24'54" N. lat., 132°39'46" W. long., to 54°26'00" N. lat., 132°44'12" W. long., to 54°27'07" N. lat., 132°49'35" W. long., to 54°27'07" N. lat., 132°50'42" W. long., to 54°28'25" N. lat., 132°55'54" W. long., to 54°28'32" N. lat., 132°56'28" W. long., to 54°30'03" N. lat., 133°07'00" W. long., to 54°30'10" N. lat., 133°07'43" W. long., to 54°30'42" N. lat., 133°11'28" W. long., to 54°31'02" N. lat., 133°14'00" W. long., to 54°30'06" N. lat., 133°16'58" W. long., to 54°22'01" N. lat., 133°44'24" W. long., to 54°20'33" N. lat., 133°49'21" W. long., to 54°15'40" N. lat., 134°19'49" W. long., to 54°12'57" N. lat., 134°23'47" W. long., to 54°12'45" N. lat., 134°25'03" W. long., to 54°07'30" N. lat., 134°56'24" W. long., to 54°00'01" N. lat., 135°45'57" W. long., to 53°28'27" N. lat., 138°45'20" W. long.

(R) Yakutat District: All waters of Alaska between the longitude of Cape Suckling (143°53' W. long.) and the longitude of Icy Cape (141°42' W. long.).

(S) Yakutat District: All waters of Alaska between the longitude of Icy Cape (141°42' long.) and a line projected southwest from the westernmost tip of Cape Fairweather.

(ii) Shellfish may be taken for subsistence purposes only as provided in this subsection.

(A) Yakutat: Only those residents domiciled east of Yakutat Bay, including the islands within Yakutat Bay, west of the Situk River drainage, and south of and including Knight Island may take shellfish in waters of Yakutat Bay, including Russell Fiord, within a line from the westernmost point of Point Manby to the southernmost point of Ocean Cape.

(B) Klukwan: Only those residents domiciled west of the Haines highway between Mile 20 and Mile 24 and east of the Chilkat River may take shellfish, except king and tanner crab, in waters of Section 15-A.

(C) Haines: Only those residents domiciled in the City and Borough of Haines, excluding residents domiciled in the village of Klukwan and in the drainages of Excursion Inlet, may take shellfish, except shrimp, king crab, and tanner crab, in waters of section 15-A.

(D) Hoonah: Only those residents domiciled in the City of Hoonah and in Chichagof Island drainages on the eastern shore of Port Frederick from Gartina Creek to Point Sophia may take shellfish, except shrimp, king crab, and tanner crab, in waters of District 14 east of the longitude of Point Dundas.

(E) Angoon: Only those residents domiciled in the City of Angoon and along the western shore of Admiralty Island north of the latitude of Sand Island, south of the latitude of Thayer Creek, and west of 134°30' West longitude, including Killisnoo Island, may take shellfish, except shrimp, king crab, and tanner crab, in waters of District 12 between the latitude of Parker Point and the latitude of Point Caution, and in section 13-C east of the longitude of Point Elizabeth.

(F) Kake: Only those residents domiciled in the City of Kake and in Kupreanof Island drainages into Keku Strait south of Point White and north of the Portage Bay boat harbor may take shellfish, except shrimp, king crab, and tanner crab, in waters of section 9-B north of the latitude of Point Ellis, in waters of District 10 west of a line from Penta Point to Point Pybus, and in waters of District 5 north of 56°40' North latitude.

(G) Saxman: Only those residents domiciled in the City of Saxman may take shellfish, except shrimp, king crab, and tanner crab, in waters of section 1-F north of the latitude of the northernmost tip of Mary Island, except waters of Boca de Quandra, and in waters of section 1-E south of the latitude Grand Island light.

(H) Kasaan: Only those residents domiciled in the City of Kasaan and in the drainages of the southeastern shore of the Kasaan Peninsula west of 132°20' West longitude and east of 132°25' West longitude may take shellfish, except shrimp, king crab, and tanner crab, in District 2 north of the latitude of the northernmost tip of Chasina Point and west of a line from the northernmost tip of Chasina Point to the easternmost tip of Grindall Island to the easternmost tip of the Kasaan Peninsula.

(I) Klawock: Only those residents domiciled in the City of Klawock and on Prince of Wales Island within the boundaries of the Klawock Heenya Corporation as they existed in January 1989 may take shellfish, except shrimp,

king crab, and tanner crab, in waters of section 3-B.

(J) Craig: Only those residents domiciled in the City of Craig and on Prince of Wales Island within the boundaries of the Shan Seet Corporation as they existed in January 1989 may take shellfish, except shrimp, king crab, and tanner crab, in waters of section 3-B.

(K) Hydaburg: Only those residents domiciled in the townsite of Hydaburg may take shellfish, except shrimp, king crab, and tanner crab, in waters of section 3-B south of the latitude of Bocas Point, excluding Port Refugio.

(iii) No commercially licensed and registered shrimp fishing vessel may be used to take shrimp for subsistence purposes in Districts 6, 7, 8 and 10 from February 15 through April 30.

(iv) In the subsistence taking of dungeness crab.

(A) The daily bag and possession limit is 20 crab per person except that, in waters of Thorne Bay west of the longitude of the southernmost tip of Thorne Head, the daily bag and possession limit is five crab;

(B) Only make crab six and one-half inches or greater in shoulder width may be taken or possessed;

(C) Spears and gaffs may not be used in Districts 1 through 15;

(D) Live holding facilities used to accumulate or pool multiple bag limits by an individual or individuals are not allowed.

(v) In the subsistence taking of king crab.

(A) In the Southeastern Alaska Area the daily bag and possession limit is six crab per person and only male crab may be taken;

(B) In that portion of the Southeastern Alaska-Yakutat Area east of the longitude of Cape Spencer (136°39' 30 seconds West longitude)

(1) Red and blue king crab may not be taken from April 1 through June 30;

(2) Only make red and brown king crab seven inches and male blue king crab six and one-half inches or larger in width of shell may be taken or possessed;

(C) In the Yakutat Area the daily bag and possession limit is two crab per person and only male crab may be taken;

(D) An operator of a commercially licensed and registered king crab fishing vessel shall obtain a permit from the Alaska Department of Fish and Game before taking king crab for subsistence purposes in waters of Yakutat Bay enclosed by a line from the westernmost tip of Ocean Cape to the easternmost tip of Point Manby during the open commercial king crab fishing season; the Alaska Department of Fish and Game

may set out requirements in the permit for the conservation of the king crab resource and to ensure compliance with other applicable fishing laws and regulations.

(vi) In the subsistence taking of tanner crab the possession limit is 30 crab per person per day.

(vii) In the subsistence taking of geoducks the bag limit is six geoducks per person per day.

(viii) In the subsistence taking of abalone

(A) The possession limit is 50 abalone per person.

(B) The minimum allowed size is three inches (76 mm) in greatest diameter of shell, except in district 13 the minimum legal size is three and one-half inches (89 mm) in greatest diameter of shell;

(C) Subsistence fishing is prohibited while engaged in commercial abalone fishing; prior to engaging in the subsistence fishery, commercial abalone fishermen must return the commercial permit to the Alaska Department of Fish and Game and land the commercial catch in possession.

(2) *Prince William Sound Area.* The Prince William Sound Area has as its western boundary the longitude of Cape Fairfield (148°50' West longitude), its eastern boundary the longitude of Cape Suckling (143°53' West longitude) and its seaward boundary the 400-fathom (732 m) depth contour.

(i) In the subsistence taking of shrimp in addition to marking requirements otherwise specified, each key or buoy must also be plainly and legibly inscribed with the vessel name or U.S. Coast Guard number of the vessel used to operate the pot.

(ii) In the subsistence taking of dungeness crab

(A) The daily bag and possession limit is 20 crab per person;

(B) The minimum legal size is six and one-half inches (165 mm) in shoulder width;

(C) Only male crab may be taken.

(iii) In the subsistence taking of tanner crab.

(A) The daily bag and possession limit is 20 male crab per person;

(B) Only male tanner crab 5.3 inches or greater in width of shell may be taken or possessed.

(iv) In the subsistence taking of king crab

(A) The daily bag and possession limit is six male crab per person;

(B) All crab pots used for subsistence fishing and left in saltwater unattended longer than a two-week period shall have all bait and bait containers removed and all doors secured fully open;

(C) The minimum legal size is 5.9 inches in width of shell for blue king crab and seven inches in width of shell for red and brown king crab.

(v) In waters east of 146° West longitude and south of a line from the southernmost tip of point Bentinck, to the southernmost tip of Point Whittshed

(A) Razor clams may be taken only under the authority of a subsistence razor clam fishing permit;

(B) Only razor clams four and one-half inches or longer in length of shell may be taken or possessed.

(3) *Cook Inlet Area.* (i) The Cook Inlet Area has as its eastern boundary the longitude of Cape Fairfield (148°50' West longitude) and its southern boundary the latitude of Cape Douglas (58°52' North latitude).

(ii) Northern District: North of a line extending from Boulder Point at 60°46'23" N. lat., to Shell Platform C, then to a point on the west shore at 60°46'23" N. lat.

(A) Eastern Subdistrict: All waters south of the latitude of Point Possession, north of the latitude of Boulder Point, and east of a line from Shell Platform C to a point at 61°02'40" N. Lat., 150°40' W. long.;

(B) General Subdistrict: All waters of the Northern District not specified above.

(iii) Central District: All waters between a line extending from Boulder Point at 60°46'23" N. lat., to Shell Platform C, to a point on the west shore at 60°46'23" N. lat., and the latitude of Anchor Point Light (59°46'12" N. lat.)

(A) Kustatan Subdistrict: All waters within a line from the Drift River terminal to the South Kalgin Island Light at 60° 20' 48" N. lat., 152° 04' 30" W. long., northerly along the west side of Kalgin Island to Northwest Point at 60° 31' 15" N. lat., 155° 55' 45" W. long., bearing 43° to Shell Platform C, to a point on the west shore at 60° 46' 23" N. lat., excluding the waters of the Kalgin Island Subdistrict;

(B) Upper Subdistrict: All waters within a line from Boulder Point to shell Platform C, then bearing 223° to Northwest Point at 60° 31' 15" N. lat., 151° 55' 45" W. long., then following the eastern shore of Kalgin Island to the South Kalgin Island Light at 60° 20' 48" N. lat., 152° 09' 42" W. long., then bearing 142° to the Ninilchik small boat harbor, excluding the waters of the Kalgin Island Subdistrict;

(C) Kalgin Island Subdistrict: All waters within a line encompassing Kalgin Island within one mile of mean lower low water as delineated by the most recent U.S. Coast and Geodetic Survey chart number 8553;

(D) Lower Subdistrict: Waters between a line extending from Ninilchik small boat harbor, then bearing 136° to the South Kalgin Light at 60° 20' 48" N. lat., 152° 09' 42" W. long., then bearing 236° to a point one nautical mile from the bluff on the northwestern shore of Chisik Island at 60° 10' 30" N. lat., 152° 35' W. long., then in a southerly direction one nautical mile seaward of the mean high water line to a point at the southern end of the silver salmon set-net area at 59° 58' 5" N. lat., then bearing 270° to the shore, and the latitude of the Anchor Point Light, excluding the waters of the Chinta Bay and the Kalgin Islands Subdistricts;

(E) Western Subdistrict: Waters within a line from the Drift River terminal to the South Kalgin Light at 60° 20' 48" N. lat., 152° 09' 42" W. long., then bearing 236° to a point one nautical mile from the bluff on the northeast shore of Chisik Island at 60° 10' 30" N. lat., 152° 35' W. long., then in a southerly direction one nautical mile seaward of the mean high water line to a point at the southern end of the silver salmon set-net area at 59° 58' 05" N. lat., then bearing 270° to the shore, excluding the waters of the Kalgin Island Subdistrict;

(F) Chinitna Bay Subdistrict: All waters in Chinitna Bay west of a line from Spring Point to Sea Otter Point.

(iv) Southern District: All waters enclosed by a line from the westernmost tip of Anchor Point west to 59° 46' 15" N. lat., 162° 20' W. long., then south to 59° 03' 25" N. lat., 152° 20' W. long., then in a northeasterly direction to the tip of Cape Elizabeth, then from the tip of Cape Elizabeth to the tip of Point Adam;

(A) Port Graham Subdistrict: All waters east of the longitude of Point Bede and south of the latitude of Point Pogibshi;

(B) Seldovia Bay Subdistrict: All waters south of a line from Point Naskowhak to Seldovia Point;

(C) Barbara Creek Subdistrict: All waters between the longitudes of Seldovia Point and Nubble Point and south of 59° 30' N. lat.;

(D) Tutka Bay Subdistrict: All waters east of the longitude of Nubble Point and south of the latitude of Anisom Point on the eastern shore of Eldred Passage at 59° 32' 06" N. lat., 141° 27' 55" W. long., including Kasitsna Bay;

(E) Humpy Creek Subdistrict: All waters east of a line from an Alaska Department of Fish and Game marker on Glacier Spit at 59° 38' N. lat., 151° 12' 31" W. long., to the Northshore Subdistrict line at 59° 38' 15" N. lat., 151° 18' 45" W. long., and southeast of a line from that point on the Northshore Subdistrict line at 59° 38' 15" N. lat., 151°

18° 45' W. long., to a point north of Chugachik Island at 59° 45' N. lat., 151° 02' 36" W. long., to a point on the mainland at 59° 44' 30" N. lat., 151° 02' 06" W. long.

(F) Northshore Subdistrict: All waters north of a line from Coal Point to a point north of Chugachik Island at 59° 45' N. lat., 151° 02' 36" W. long., then northwesterly to a marker one-half statute mile southwest of the terminus of Swift Creek;

(G) China Poot Subdistrict: All waters south of a line from Peterson Point at 59° 35' 48" N. lat., 151° 16' 24" W. long., to Coal Point on the tip of the Homer Spit at 59° 36' 06" N. lat., 151° 24' 30" W. long., to 59° 32' 06" N. lat., 151° 33' 05" W. long. to Anisom Point.

(H) Halibut Cove Subdistrict: All waters within a line from a marker on Glacier spit at 59° 38' N. lat., 151° 12' 30" W. long. to the intersection of the Northshore Subdistrict line at 59° 38' 15" N. lat., 151° 18' 45" W. long., to Coal Point to Peterson Point.

(v) Kamishak Bay District: All water enclosed by a line from 59° 46' 15" N. lat., 153° 30' W. long., then east to 59° 46' 15" N. lat., 152° 20' W. long., then south to 59° 03' 25" N. lat., 152° 20' W. long., then southwesterly to Cape Douglas (58° 52' N. lat.).

(A) Iniskin Bay Subdistrict: All waters north of a line from a point on the east shore of Iniskin Bay near Scott Island at 59° 38' 35" N. lat., 153° 25' 30" W. long., to a point north of South Head at 59° 37' 20" N. lat., 153° 33' 30" W. long.;

(B) Cottonwood Bay Subdistrict: All waters west of a line from South Head north to a point at 59° 37' 20" N. lat., 153° 33' 30" W. long.;

(C) Ursus Cove Subdistrict: All waters west of the longitude of Ursus Head and north of 59° 28' 05" N. lat.;

(D) Rocky Cove Subdistrict: All waters between 59° 28' 05" N. lat., and 50° 25' N. lat., and west of 153° 40' W. long.;

(E) Bruin Bay Subdistrict: All waters between 59° 25' N. lat., and 59° 20' N. lat., and west of 153° 40' W. long.;

(F) Kamishak River Subdistrict: All waters east of a line from McNeil Head at 59° 07' 24" N. lat., 154° 10' 24" W. long. to the mushroom islet at 59° 07' 45" N. lat., 154° 09' 30" W. long. to the northern tip of Nordyke Island at 59° 11' N. lat., 154° 05' W. long., south of the latitude of the northern tip of Nordyke Island, and west of 153° 50' W. long.;

(G) McNeil River Subdistrict: All waters southwest of a line from McNeil Head to a point of land at 59° 09' 30" N. lat., 154° 12' 45" W. long.;

(H) Chenik Subdistrict: All waters between 59° 20' N. lat., and the latitude of the northern tip of Nordyke Island at

59° 11' N. lat., 154° 05' W. long., and west of 153° 40' W. long.;

(I) Paint River Subdistrict: All waters south of the latitude of the northern tip of Nordyke Island at 59° 11' N. lat., 154° 05' W. long., west of a line from the northern tip of Nordyke Island to the mushroom islet at 59° 07' 45" N. lat., 154° 09' 30" W. long. to McNeil Head and east of a line from McNeil Head to a point of land at 59° 09' 30" N. lat., 154° 12' 45" W. long.;

(J) Douglas River Subdistrict: All waters west of the longitude of Cape Douglas (153° 10' 30" W. long.), south of the latitude of the northern tip of Nordyke Island at 59° 11' N. lat., 154° 05' W. long., and east of 153° 50' W. long.

(vi) Barren Island District: All waters enclosed by a line from Cape Douglas (58° 2' N. lat.) to the tip of Cape Elizabeth, then south to 58° 52' N. lat., 151° 53' W. long., then west to Cape Douglas.

(vii) Outer District: All waters enclosed by a line from the tip of Point Adam to the tip of Cape Elizabeth, then south to 58° 52' N. lat., 151° 53' W. long., then east to the longitude of Aligo Point (149° 44' 33" W. long.), then north to the tip of Aligo Point.

(A) Koyuktolik Subdistrict: All waters east of the longitude of Point Adam and north of 59° 13' 55" N. lat.;

(B) Port Chatham Subdistrict: All waters north of 59° 10' N. lat., and east of 151° 50' W. long.;

(C) Windy Bay Subdistrict: All waters west of a line from 59° 12' 33" N. lat., 151° 27' 30" W. long., to 59° 14' 08" N. lat., 151° 26' 24" W. long.;

(D) Rocky Bay Subdistrict: All waters north of a line from 59° 14' 08" N. lat., 151° 26' 24" W. long., to 59° 12' 24" N. lat., 151° 19' 15" W. long.; Scurvey Creek Section: all waters northwest of a line from 59° 34' 30" N. lat., 151° 26' 24" W. long. to a point on the southwest corner of Picnic Harbor at 59° 15' 05" N. lat., 151° 25' W. long.;

(E) Port Dick Subdistrict: All waters of Port Dick north of 59° 13' 12" N. lat.;

(1) Port Dick North Section: All waters of the northern shore of West Arm bounded by a line from the market at 59° 18' 40" N. lat., 151° 16' 50" W. long., south to a point 300 yards offshore then southeasterly to 59° 16' 50" N. lat., 151° 05' 55" W. long. then north to the waterfall at 59° 16' 40" N. lat.

(2) Port Dick South Section: Waters of the subdistrict not included in the Port Dick North Section.

(F) Nuka Island Subdistrict: All waters of Nuka Passage north of a line from Front Point to Nuka Point and south of the latitude of Hardover Point;

(G) East Nuka Subdistrict: All waters of the East Arm of Huka Bay north of the latitude of Harrington Point.

(viii) Eastern District: All waters east of the longitude of Aligo Point (149° 44' 33" W. long.), west of the longitude of Cape Fairfield (148° 50' W. long.), and north of 58° 52' N. lat.

(A) Aialik Bay Subdistrict: All waters north of a line from Aligo Point to Aialik Cape;

(B) Resurrection Bay Subdistrict: All waters north of the latitude of Caines Head (59° 59' N. lat.)

(ix) Except as otherwise in this section, no person may take shellfish for subsistence purposes.

(x) Clams may be taken in the Port Graham Subdistrict only by persons domiciled in the villages of Port Graham and English Bay.

(xi) Clams may be taken on the western beaches of Cook Inlet from the terminus of the Drift River to the terminus of the Crescent River only by persons domiciled in the village of Tyonek.

(xii) No person may take dungeness crab or king crab.

(4) Kodiak Area. (i) The Kodiak Area has as its northern boundary the latitude of Cape Douglas (58° 52' North latitude), its western boundary the longitude of Cape Kumlik (157° 27' West longitude), its eastern boundary the longitude of Cape Fairfield (148° 50' West longitude), and its seaward boundary the 300-fathom (549 m) depth contour.

(ii) Shellfish may be taken for subsistence purposes only under the authority of a subsistence shellfish fishing permit.

(iii) The operator of a commercially licensed and registered shrimp fishing vessel must obtain a subsistence fishing permit from the Alaska Department of Fish and Game before subsistence shrimp fishing during a closed commercial shrimp fishing season or within a closed commercial shrimp fishing district, section or subsection. The permit shall specify the area and the date the vessel operator intends to fish. No more than 500 pounds (227 kg) of shrimp may be in possession aboard the vessel.

(iv) The daily bag and possession limit is 12 dungeness crab per person. Only male dungeness crab may be taken.

(v) In the subsistence taking of king crab

(A) The daily bag and possession limit is six crab per person and only male crab may be taken;

(B) All crab pots used for subsistence fishing and left in saltwater unattended longer than a two-week period shall

have all bait and bait containers removed and all doors secured fully open;

(C) No more than five crab pots may be used to take king crab;

(D) King crab may be taken only from June 1 through January 31, except that the subsistence taking of king crab is prohibited in waters 25 fathoms or greater in depth during the period 14 days before and 14 days after open commercial fishing seasons for red king crab, blue king crab, or tanner crab in the location.

(vi) In the subsistence taking of tanner crab

(A) No more than five crab pots may be used to take tanner crab;

(B) From July 15 through February 10, the subsistence taking of tanner crab is prohibited in waters 25 fathoms or greater in depth, unless the commercial tanner crab fishing season is open in the location.

(C) The daily bag and possession limit is 12 crab per person and only male crab may be taken.

(vii) Only those residents domiciled in the Kodiak Island Borough, except those residing on the Kodiak Coast Guard Base, may take king crab in the Kodiak Area. This restriction does not apply to the Semidi Island, the North Mainland, and the South Mainland Sections, as described below:

(A) Semidi Island Section: all waters west of the longitude of Cape Kilokak (156° 19' West longitude) and east of the longitude of Cape Kumlik (157° 27' West longitude);

(B) North Mainland Section: all waters north of 58° North latitude and west of a line from 58° 52' North latitude, 152° 45' West longitude to 58° North latitude, 154° West longitude.

(C) South Mainland Section: all waters south of 58° North latitude, west of a line from 58° North latitude, 154° West longitude to 57° 15' North latitude, 155° 30' West longitude to 56° 45' North latitude, 156° 19' West longitude, and east of the longitude of Cape Kilokak (156° 19' West longitude.)

(5) *Alaska Peninsula-Aleutian Islands Area.* (i) The area includes Pacific Ocean waters west of the longitude of Cape Kumlik (157° 27' West longitude), east of 172° East longitude and shoreward of the 800-fathom (1463 m) depth contour, and Bering Sea waters east of 172° East longitude and south of 54° 36' North latitude.

(ii) Shellfish may be taken for subsistence purposes only under the

authority of a subsistence shellfish fishing permit.

(iii) The operator of a commercially licensed and registered shrimp fishing vessel must obtain a subsistence fishing permit from the Alaska Department of Fish and Game prior to subsistence shrimp fishing during a closed commercial shrimp fishing season or within a closed commercial shrimp fishing district, section, or subsection. The permit shall specify the area and the date the vessel operator intends to fish. No more than 500 pounds (227 kg) of shrimp may be in possession aboard the vessel.

(iv) The daily bag and possession limit is 12 dungeness crab per person. Only male dungeness crab may be taken.

(v) In the subsistence taking of king crab

(A) The daily bag and possession limit is six crab per person and only male crab may be taken;

(B) All crab pots used for subsistence fishing and left in saltwater unattended longer than a two-week period shall have all bait and bait containers removed and all doors secured fully open;

(C) Crab may be taken only from June 1 through January 31.

(vi) The daily bag and possession limit is 12 tanner crab per person. Only male crab may be taken.

(6) *Bering Sea Area.* (i) The area includes the waters of the Bering Sea and Chukchi Sea north of 54° 36' North latitude, east of a line from 54° 36' North latitude, 171° 23' East longitude, to 65° 32' North latitude, 168° 55' West longitude to 68° 21' North latitude, 168° 55' West longitude (the U.S.-Russia Convention Line of 1867) and south of the latitude of Point Hope (68° 21' North latitude).

(A) Pribilof District: Waters of the Bering Sea area south of the latitude of Cape Newenham (58° 39' North latitude).

(B) Northern District: Waters of the Bering Sea area north of the latitude of Cape Newenham (58° 39' North latitude).

(2) Norton Sound Section: Waters east of 168° West longitude, north of the latitude of Cape Romanzof (61° 49' North latitude), and south of the latitude of Cape Prince of Wales (65° 36' North latitude);

(2) Saint Matthew Island Section: Waters north of the latitude of Cape Newenham (58° 39' North latitude) and south of the latitude of Cape Romanzof (61° 49' North latitude);

(C) Saint Lawrence Island Section: All remaining waters of the district.

(ii) In waters south of 60° North latitude, shellfish may be taken for subsistence purposes only under the authority of a subsistence shellfish fishing permit.

(iii) In that portion of the area north of the latitude of Cape Newenham, shellfish may only be taken by shovel, jigging gear, pots and ring net.

(iv) The operator of a commercially licensed and registered shrimp fishing vessel must obtain a subsistence fishing permit from the Alaska Department of Fish and Game prior to subsistence shrimp fishing during a closed commercial shrimp fishing season or within a closed commercial shrimp fishing district, section or subsection. The permit shall specify the area and the date the vessel operator intends to fish. No more than 500 pounds (227 kg) of shrimp may be in possession aboard the vessel.

(v) In waters south of 60° North latitude, the daily bag and possession limit is 12 dungeness crab per person. Only male dungeness crab may be taken.

(vi) In the subsistence taking of king crab:

(A) In waters south of 60° North latitude, the daily bag and possession limit is six crab per person, and only male crab may be taken;

(B) All crab pots used for subsistence fishing and left in saltwater unattended longer than a two-week period shall have all bait and bait containers removed and all doors secured fully open;

(C) In the Norton Sound Section of the Northern District, a subsistence fishing permit is required and may be obtained from a local representative of the Alaska Department of Fish and Game;

(D) In waters south of 60° North latitude, crab may be taken only June 1 through January 31.

(vii) In waters south of 60° North latitude, the daily bag and possession limit is 12 tanner crab, and only males may be taken.

Dated: June 25, 1990.

Bruce Blanchard,

Acting Director, Fish and Wildlife Service.

Dated: June 25, 1990.

F. Dale Robertson,

Chief, USDA—Forest Service.

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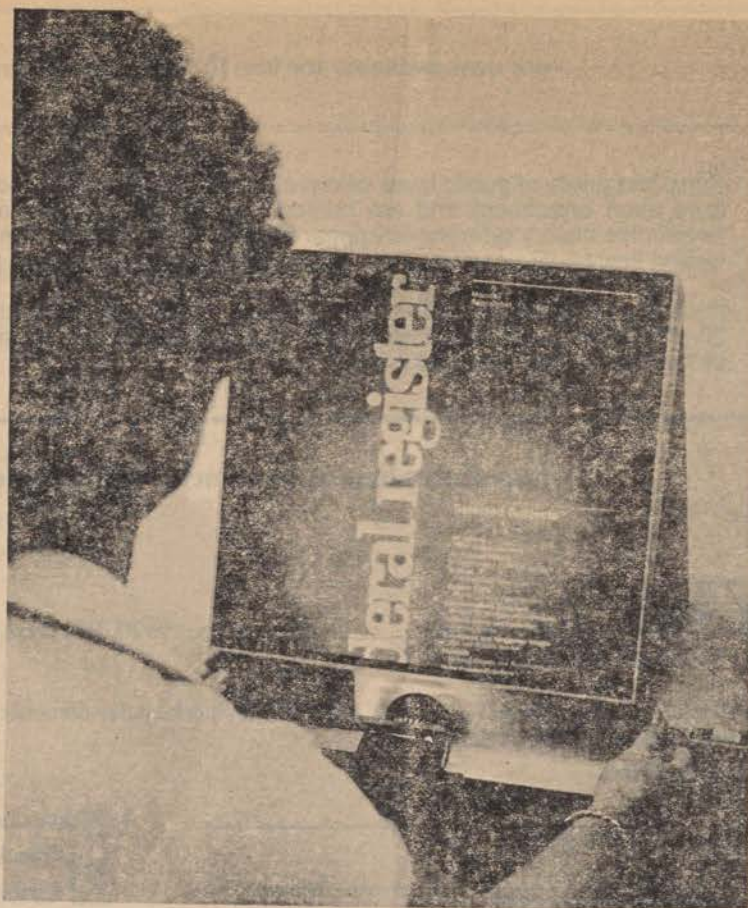
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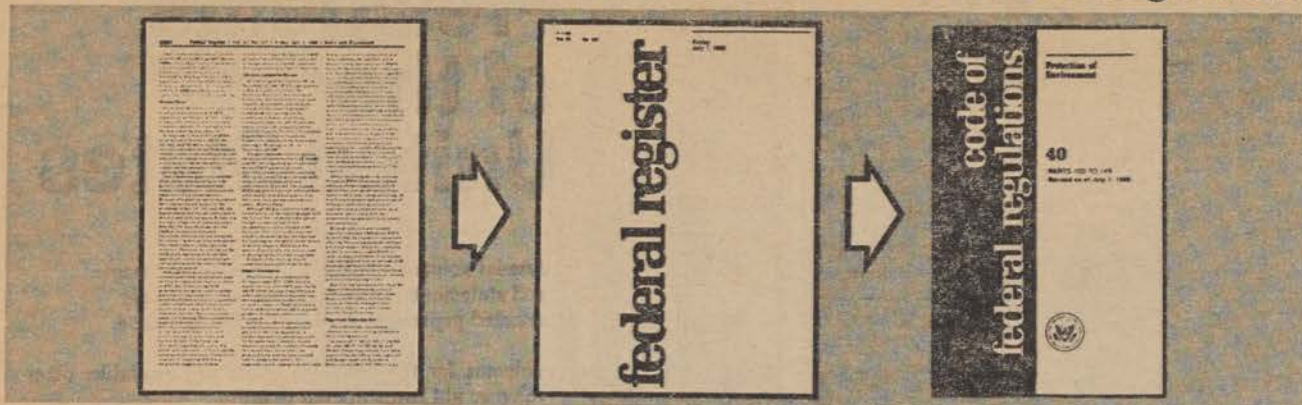
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